

Chapter 284 of NAC

ADOPTED TEMPORARY REGULATION OF  
THE PERSONNEL COMMISSION

LCB File No. T015-11

Filed with the Secretary of State on June 10, 2011

NAC 284.888 is hereby amended to read as follows:

**Explanation of Proposed Change:** This temporary amendment, proposed by the Department of Personnel, brings NAC 284.888 into alignment with NRS 284.4065. It will allow an appointing authority to more easily test an employee who, while on duty, operates a motor vehicle in any manner that causes bodily injury to himself or another or substantial damage to property.

**NAC 284.888 Request for employee to submit to screening test: Interpretation of grounds; completion of required forms. (NRS 284.065, 284.155, 284.407)**

1. Objective facts upon which an appointing authority may base a reasonable belief that an employee is under the influence of alcohol or drugs which impair the ability of the employee to perform his duties safely and efficiently include, but are not limited to:

(a) ~~[(The operation of a motor vehicle by the employee in any manner that causes bodily harm; —(b)]~~ Abnormal conduct or erratic behavior by the employee that is not otherwise normally explainable;

~~[(b)]~~ The odor of alcohol or a controlled substance on the breath of the employee;

~~[(c)]~~ Observation of the employee consuming alcohol; or

~~[(d)]~~ Observation of the employee possessing a controlled substance or using a controlled substance that is reported by a credible source; or

~~[(e)]~~ The occurrence of any accident while the employee is on the premises of the workplace for which the employee receives medical treatment.

2. Pursuant to subsection 2 of NRS 284.4065, *an appointing authority may request an employee to submit to a screening test if during the performance of his duties, the employee drives a motor vehicle in such a manner as to cause bodily injury to himself or another person or substantial damage to property.*

(a) ~~[(s)]~~ Substantial damage to property” includes, but is not limited to:

~~[(a)1]~~ The operation of a motor vehicle in such a manner as to cause more than \$500 worth of property damage; or

~~[(b)2]~~ The operation of a motor vehicle in such a manner as to cause two property accidents within a 1-year period.

3. Before requiring an employee to submit to a screening test, a supervisor must complete forms provided by the Department of Personnel.

(a) *This subsection does not apply when testing is performed pursuant to subsection 2.*

(Added to NAC by Dep’t of Personnel, eff. 12-26-91; R066-09, 10-27-2009; R193-09, 4-20-10)

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED BY  
NRS 233B.066  
NAC 284.888**

The following statement is submitted for amendments to Nevada Administrative Code (NAC) 284.

**1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.**

Copies of the proposed regulation, notices of workshop, and notices of intent to act upon a regulation were sent by email to persons who were known to have an interest in the subject of proposed personnel regulation changes as well as any person who had specifically requested such notice. These documents were also made available on the website of the Department of Personnel (DOP), <http://dop.nv.gov/>, mailed to all county libraries in Nevada and posted at the following locations:

Department of Personnel  
Blasdel Building  
209 E. Musser St  
Carson City, NV 89701

Grant Sawyer State Office Bldg.  
555 E. Washington Blvd  
Suite 4401  
Las Vegas, NV 89101

Nevada State Library and Archives  
100 Stewart St  
Carson City, NV 89701

Capitol Building  
Main Floor  
Carson City, NV 89701

Legislative Building  
401 S. Carson St  
Carson City, NV 89701

Gaming Control Board  
1919 College Parkway  
Carson City, NV 89701

Attached are excerpts from the minutes from the workshop that apply to this regulation.

A Regulation Workshop was conducted by the Department of Personnel on March 17, 2011 and a public hearing was held by the Nevada Personnel Commission on May 6, 2011.

**2. The number of persons who:**

- (a) **Attended each hearing:** March 17, 2011 – 21; May 6, 2011 – 40
- (b) **Testified at each hearing:** March 17, 2011 – 2; May 6, 2011 – 1
- (c) **Submitted written comments:** None

**3. A description of how comment was solicited from businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.**

Comments were not solicited, as the regulation does not affect businesses.

**4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

Sue Dunt, Nevada System of Higher Education, stated support for the proposed amendment.

There were no other comments or opposition to the proposed revision.

**5. The estimated economic effect of the regulation on the business which 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.

This regulation does not have a direct economic effect on either a regulated business or the public.

**6. 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.

**7. A description of any regulations of other State or governmental agencies which the regulation overlaps or duplicates and a statement explaining why the duplication or overlap is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

There are no other state or government agency regulations that the proposed amendment duplicates.

**8. If the regulation includes provisions that are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.**

This regulation does not include any provisions that are more stringent than any federal regulation.

**9. 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.**

No fees are associated with this regulation.

**10. Is the proposed regulation likely to impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small business? What methods did the agency use in determining the impact of the regulation on a small business?**

This regulation is specific to State government agencies and has no impact on small businesses.

**SUMMARY OF THE WORKSHOP TO SOLICIT COMMENTS ON THE PROPOSED  
REGULATIONS OF THE STATE DEPARTMENT OF PERSONNEL  
March 17, 2011**

CARSON CITY, NEVADA  
And via Video Conferencing in  
LAS VEGAS, NEVADA

Attendees in Carson City:

Shelley Blotter, Division Administrator, Department of Personnel  
Mark Evans, Supervisory Personnel Analyst, Department of Personnel  
Peter Long, Division Administrator, Department of Personnel  
Adam Drost, Central Payroll Manager, Department of Personnel  
Kimberley King, Personnel Officer III, Department of Transportation  
Denise Woo-Seymour, Personnel Analyst II, Department of Personnel  
Carrie Hughes, Personnel Analyst, Department of Personnel  
Norma Mallett, Personnel Officer III, Department of Health & Human Services-MHDS  
Valerie Kneefel, Executive Assistant, Department of Personnel  
Vicky Cummins, Division of Mortgage Lending  
Kirsten Hettrick, State Parks  
Jamie Pruneser, Rural Services  
Sue Dunt, NSHE  
Tracy Walters, Health Division  
Kate Hinton-Burnette, DHCFP  
Susie Bargmann, NDOC  
Karen Caterino, Risk Management

Attendees in Las Vegas:

Mark Anastas, Division Administrator, Department of Personnel  
J. C. Scarborough, Director-Administrative Operations, College of Southern Nevada  
Tracy Townsend, Administrative Assistant, Department of Personnel  
Rudy Lednicky, Office of the Military

**Shelley Blotter:**

Opened the meeting at 9:00 a.m. and welcomed everyone. She asked everyone in attendance to sign the sign in sheet and stated the purpose of the workshop was to solicit comments from affected parties with regard to a newly proposed temporary regulation. These regulations will be considered for adoption by the Personnel Commission at their May 6, 2011 meeting.

**Carrie Hughes:**

Presented Section 7, the Department of Personnel is proposing a temporary amendment to NAC 284.888.

Testing on the basis of the circumstances outlined in subsection 2 of NRS 284.4065 does not require following the procedures outlined in subsection 1 of NRS 284.4065. This amendment will bring NAC 284.888 into alignment with NRS 284.4065 and make it easier for appointing authorities to conduct testing following a motor vehicle accident.

**Sue Dunt:**

Nevada System of Higher Education. Stated that they are in support of the Section 7 change to NAC 284.888 and will make the process go smoother and faster.

**Shelley Blotter:** Closed the workshop.