

**PROPOSED REGULATION OF
THE DEPARTMENT OF MOTOR VEHICLES
LCB File No.**

April 20, 2006

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

AUTHORITY: NRS 483.908

A regulation relating to commercial medical waivers.

Section 1. NAC 483.803 is hereby amended to read as follows:

NAC 483.803 Waiver of certain physical requirements: Submission and contents of application. (NRS 483.908)

1. A person who is not physically qualified to operate a commercial motor vehicle pursuant to ~~[paragraph (b)(1), (b)(2), (b)(3) or (b)(8) of]~~ 49 C.F.R. § 391.41, but who is otherwise qualified to operate a commercial motor vehicle, may apply to the Department for a waiver of the physical requirements with which he does not comply.

2. An applicant for a waiver of one or more of the physical requirements described in subsection 1 must submit to the Department an application on a form prescribed by the Department. The application must include:

(a) The applicant's *full legal* name, date of birth, address, telephone number, ~~[and]~~ social security number ~~[or]~~ *and* driver's license number;

(b) The type of vehicle the applicant will operate;

(c) The type of commodities or cargo the applicant will transport;

(d) The type of transmission, braking system and steering system of the vehicle which the applicant will operate;

(e) Whether the applicant is self-employed, employed by a motor carrier or unemployed as a commercial driver;

(f) Information relating to the driving history of the applicant, including, without limitation, the number of years he has been licensed to drive a *commercial* motor vehicle and the number of years he has operated the type of vehicle for the operation of which he is requesting a license;

(g) If the applicant is or will be employed by a motor carrier, the name and address of the motor carrier;

(h) A description of any modifications made to the vehicle for the driver. ~~[-and
(i) Any additional information which the Department deems necessary to determine the applicant's ability to operate a commercial motor vehicle safely.]~~

3. The application must be submitted to the Department of Motor Vehicles, 810 East Greg Street, Sparks, Nevada 89431.

Sec. 2 NAC 483.8031 Waiver of certain physical requirements: Requirements for issuance; refusal to issue; restrictions on use of medical information submitted to Department. (NRS 483.908)

1. An applicant for a waiver of one or more of the physical requirements described in ~~[NAC 483.803]~~ **49 CFR 391.41** must submit to the Department with his application:

(a) A copy of a medical examination required pursuant to paragraph (e) of 49 C.F.R. § 391.43;

(b) A copy of a medical certificate required pursuant to 49 C.F.R. § 391.43; and

(c) A ~~[written statement of a physician]~~ **completed Confidential Medical Evaluation signed by a licensed physician on a form prescribed by the Department** if the applicant suffers from a physical impairment or by a physician or optometrist if the applicant suffers from a visual impairment. The ~~[statement]~~ **Confidential Medical Evaluation** must:

(1) Identify and describe the visual or physical impairment of the applicant;

(2) Indicate whether the applicant's condition is stable or progressive;

(3) Certify that the applicant is able to operate a commercial motor vehicle;

(4) Certify that the vision of the applicant is at least 20/40, corrected or uncorrected, in at least one eye if the applicant suffers from a visual deficiency;

(5) If a limb of the applicant has been amputated or otherwise impaired, assess the physical capabilities of the applicant as they relate to his ability to perform the tasks specified in the description of the applicant's job which the applicant must provide to the physician;

(6) If the applicant wears a prosthetic or orthotic device, include a description of the manner in which the prosthetic or orthotic device operates; and

(7) If the applicant suffers from epilepsy or any other condition which is likely to cause loss of consciousness or any loss of the ability to control a commercial motor vehicle safely or if he is diabetic and dependent upon insulin, indicate the date of his most recent seizure and ~~[whether]~~:

(I) **If** ~~[F]~~ the seizure was an isolated incident;

(II) **If** ~~[A]~~ additional seizures are likely to occur; and

(III) **Whether or not** ~~[F]~~ the prescribed medication will interfere with the person's ability to operate a motor vehicle.

2. An applicant who suffers epilepsy or any other condition which is likely to cause loss of consciousness or any loss of the ability to control a commercial motor vehicle safely, or is diabetic and dependent upon insulin, will not be issued a waiver unless:

(a) He has not suffered any fainting or dizzy spells, seizures or other similar disorders for ~~[the 3 consecutive months]~~ **1 year** preceding the date the Department receives the application; and

(b) A physician's diagnosis of the applicant's condition and its effect on the person's ability to operate a motor vehicle safely has been submitted to the Department.

~~[3. The Department may require an applicant to submit the opinion of more than one physician or optometrist if the Department deems it appropriate. Regardless of the opinion of a physician or optometrist, the Department will refuse to issue a waiver if the Department determines that it is in the best interests of the public to refuse to issue a waiver to the applicant.]~~

~~[4.]~~ **3.** An applicant for a waiver who wears a prosthetic or orthotic device must demonstrate his ability to operate safely the type of motor vehicle he intends to operate. The Department may require any other applicant to demonstrate his ability to operate

safely the type of motor vehicle he intends to operate if the Department determines that such a demonstration is necessary.

~~[5.] 4. [The Department will not use the information included in any medical report submitted pursuant to this section for any purpose other than to determine the physical or mental competency of the applicant to operate a commercial motor vehicle in this State.]~~ The information *provided for the purpose of this program* is privileged and ~~[may]~~ shall be released only ~~[to the applicant,]~~ upon ~~[his]~~ written release *by the applicant*, or pursuant to a court order.

Sec. 3 NAC 483.8032 Waiver of certain physical requirements: Approval or denial of application; request for additional information. (NRS 483.908)

1. The Department will, based upon the ~~[documents submitted by the applicant pursuant to NAC 483.803 and 483.8031]~~ *recommendation of the physician*, deny an application for a waiver of one or more of the physical requirements described in ~~[NAC 483.803]~~ *49 CFR 391.41* or grant the waiver. ~~[totally or in part. A waiver is subject to any terms, conditions and limitations specified by the Department.]~~

2. The Department will notify the applicant whether his application is approved or denied ~~[or request additional information from the applicant]~~ within 30 days after the receipt of the ~~[documents submitted by the applicant]~~ *completed application* pursuant to [NAC 483.803](#) and [483.8031](#).

Sec. 4 NAC 483.8033 Waiver of certain physical requirements: Deadline for submission of application for license; requirements upon issuance of waiver; revocation of license and waiver. (NRS 483.908)

1. A person to whom a waiver of one or more of the physical requirements described in ~~[NAC 483.803]~~ *49 CFR 391.41* is issued must apply for a *Nevada* commercial driver's license within 30 days after the date on which the waiver is approved or must submit revised versions of the documents required pursuant to [NAC 483.8031](#).

2. Any driver to whom a waiver is issued:

(a) Shall, if he is employed by a motor carrier, submit to the motor carrier a copy of the waiver.

(b) Shall have the waiver and a commercial driver's license in his possession while operating a commercial motor vehicle.

(c) Shall not operate a commercial motor vehicle outside this State. ~~[and may be restricted from transporting passengers for compensation or transporting hazardous materials of a type or quantity for which the vehicle in which they are transported must be placarded pursuant to 49 C.F.R. Part 172]~~

(d) Shall be restricted from transporting passengers for compensation or transporting hazardous materials of a type or quantity for which the vehicle in which they are transported must be placarded pursuant to 49 C.F.R. Part 172 if he has suffered any fainting or dizzy spells, seizures or other similar disorders for 3 years preceding the date the Department receives the application.

(e) May be restricted from transporting passengers for compensation or transporting hazardous materials of a type or quantity for which the vehicle in which

they are transported must be placarded pursuant to 49 C.F.R. Part 172 if so prescribed by a licensed physician.

~~[(d)]~~ (f) Shall submit a written report to the Department, on a form approved by the Department, within 15 days after he is:

(1) Convicted of a moving violation involving the operation of a commercial motor vehicle; or

(2) Involved in an accident while operating a commercial motor vehicle. The driver shall also submit all accident reports completed by a federal or state agency concerning the accident.

3. The Department will revoke the commercial driver's license and waiver of any driver who violates any provision of this section.

Sec. 5 NAC 483.8034 Waiver of certain physical requirements: Contents; expiration. ([NRS 483.908](#))

1. A waiver of one or more of the physical requirements described in ~~[NAC 483.803]~~ [49 CFR 391.41](#) must contain:

- (a) The driver's *full legal* name, date of birth and social security number;
- (b) The number assigned to the waiver by the Department;
- (c) The effective date and expiration date of the waiver; and
- (d) Any conditions or restrictions pursuant to which the waiver is issued.

2. A waiver expires upon the expiration of the ~~holder's driver's license~~ *medical examination pursuant to paragraph (e) of 49 C.F.R. § 391.43 or upon the terms prescribed by the licensed physician.*

Sec. 6 NAC 483.8035 Waiver of certain physical requirements: Requirements for renewal of waiver; renewal of license. ([NRS 483.908](#))

1. Each person who wishes to renew a waiver of one or more of the physical requirements described in ~~[NAC 483.803]~~ [49 CFR 391.41](#) must submit ~~[an application for renewal on a form provided by the Department]~~ *revised versions of the documents required pursuant to [NAC 483.8031](#).*

~~—[2. The application must include:~~

~~—(a) The applicant's full *legal* name, date of birth, social security number and driver's license number;~~

~~—(b) The number assigned to the waiver;~~

~~—(c) The type and class of vehicles which the applicant is licensed to operate and any restrictions placed on that license by the Department;~~

~~—(d) If he is employed by a motor carrier, the name and address of the motor carrier;~~

~~—(e) The number of accidents and number of convictions for moving violations received while operating pursuant to the waiver; and~~

~~—(f) The type or class of vehicle the applicant intends to operate if different from the type or class of vehicle operated pursuant to the waiver.~~

~~—3. An application for renewal must be accompanied by revised versions of the documents required pursuant to [NAC 483.8031](#) for the original waiver.]~~

~~[4.]~~ 2. A person to whom a waiver is issued may not renew a license to operate a commercial motor vehicle until the application for renewal of the waiver is ~~[approved by the Department]~~ *received and issued pursuant to [NAC 483.803](#) and [483.8031](#).*

Sec. 7 NAC 483.8036 Waiver of certain physical requirements: Revocation or refusal to renew. ([NRS 483.908](#)) The Department may revoke or refuse to renew a waiver of one or more of the physical requirements described in ~~[NAC 483.803]~~ **49 CFR 391.41** if ~~[the Department determines that]~~ :

1. The information on the original application or the application for renewal was falsified by the applicant;
2. The applicant failed to comply with the conditions or restrictions of the waiver;
3. The applicant does not qualify for the issuance of the waiver; or
4. The applicant is no longer physically or mentally able to operate a commercial motor vehicle safely *as certified by a licensed physician*.

Sec. 8 NAC 483.807 Waiver of certain physical requirements for instruction permit: Requirements for application; conditions and restrictions; expiration; renewal prohibited. ([NRS 483.908](#))

1. A person who wishes to apply to the Department for a commercial driver's license instruction permit may apply to the Department for a waiver of the physical requirements described in ~~[NAC 483.803]~~ **49 CFR 391.41** in the same manner as prescribed for a person who wishes to apply for a commercial driver's license.

2. A waiver issued to a person who wishes to obtain a commercial driver's license instruction permit is subject to the same conditions and restrictions as a waiver issued to an applicant who wishes to obtain a commercial driver's license. ~~[, except that a waiver issued to a person with an instruction permit expires upon the expiration of the permit.~~

~~—3. The Department will not renew a waiver issued to a person who wishes to obtain a commercial driver's license instruction permit.]~~