



STATE OF NEVADA
COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING
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JOE LOMBARDO
Governor

MICHAEL D. SHERLOCK
Executive Director

NOTICE OF INTENT TO ACT UPON A REGULATION

**Notice of Hearing for the Adoption and/or Amendment
Of
Regulations of the Commission on Peace Officer
Standards and Training**

PUBLIC COMMENT HEARING NOTICE: The Commission on Peace Officer Standards and Training (“Commission”) will be holding a Public Comment Hearing at **8:00 a.m. on Thursday, October 26, 2023, at the Southpoint Hotel and Casino, 9777 Las Vegas Blvd., S., Napa Room B, Las Vegas, NV 89183.** The purpose of the hearing is to receive comments from all interested persons regarding the adoption and/or amendment of regulations that pertain to Chapter 289 of the Nevada Administrative Code (NAC).

The following information is provided pursuant to the requirements of NRS 233B.0603:

1. The need for and purpose of the proposed regulations.

Existing law requires the Peace Officer Standards and Training Commission to adopt regulations establishing minimum standards for the certification and decertification, recruitment, selection and training of peace officers. (NRS 289.510)

NAC289.110(4) states a person may not be appointed to perform the duties of a peace officer if he or she has been convicted of an offense involving moral turpitude or the unlawful use, sale or possession of a controlled substance. This update to the regulation (R004-23P) will update the hiring standards to accommodate recent law changes regarding marijuana. The update states “The provisions of subsection 4 do not apply to a person who has been convicted of an offense involving the unlawful use, sale or possession of marijuana if the offense is not unlawful at the time the person submits an application for certification as a peace officer.”

This change will allow previously disqualified candidates to be eligible for peace officer positions, potentially expanding the hiring field for agencies.

2. For a temporary regulation, the terms, or the substance of the regulation to be adopted, amended or repealed, or a description of the subjects and issues involved.

This is a permanent regulation.

3. For a proposed regulation, a statement explaining how to obtain the approved or revised text of the proposed regulation.

The proposed regulation text may be obtained by going to the Register of Administrative Regulations for 2023 and clicking the link: <https://www.leg.state.nv.us/Register/2023Register/R004-23P.pdf>, by contacting Chief Kathy Floyd at kfloyd@post.state.nv.us or by telephone at 775-687-7678, ext. 3335 or going to the Nevada Commission on POST website at <https://post.nv.gov>.

4. 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, in each case, must include:

(a) Both adverse and beneficial effects; and

(1) Adverse effects: None

(2) Beneficial effects: Allow agencies to hire a previously disqualified group of candidates, which can expand their ability to hire.

(b) Both immediate and long-term effects:

(1) The immediate effects: Expanding the ability of agencies to hire.

(2) The long-term effects: Providing a newly expanded pool of applicants would aid agencies in the ability to fill much needed positions.

5. The methods used by the agency in determining the impact on a small business.

The Commission on POST has reviewed the text of the proposed regulations. Because the regulation amends Nevada Administrative Code Chapter 289, dealing with certification provisions of the annual continuing education of peace officers, the proposed amendments to NAC Chapter 289 will have no impact on small business.

6. The estimated cost to the agency for enforcement of the proposed regulation.

None

7. A description of and citation to any regulations of other states or local governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the proposed regulation overlaps or duplicates a federal regulation, the notice must include the name of the regulating federal agency.

The proposed regulation does not overlap or duplicate any regulations of state, local or federal governmental agency regulating the same activity.

8. If the regulation is required pursuant to federal law, a citation and description of the federal law.

The proposed regulation is not required by federal law.

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

There are no federal regulations that regulate the same activity.

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10. Whether the proposed regulation establishes a new fee or increases an existing fee.

This regulation does not involve or establish fees.

11. For a temporary regulation, each address at which the text of the regulation may be inspected and copied.

N/A

Persons wishing to comment upon the proposed action of the Commission on Peace Officer Standards and Training (Commission on POST) may appear at the scheduled public hearing or may address their comments, data, views or arguments, in written form, to Michael D. Sherlock, Executive Director, Commission on POST, 5587 Wai Pai Shone Avenue, Carson City, Nevada 89701. **Written submissions must be received by the Commission on POST on or before 5:00 pm on October 12, 2023.** If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Commission on POST may proceed immediately to act upon any written submissions.

This Notice of Intent to Act Upon Regulations and the proposed regulation will be on file at the State Library, Archives and Public Records Administrator, 100 Stewart Street, Carson City, Nevada for inspection by members of the public during business hours. Additional copies of the notice and regulations to be adopted, amended or repealed will be available at the Commission on POST Administrative Offices, 5587 Wai Pai Shone Avenue, Carson City, 89701, State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the Internet at <http://leg.state.nv.us>, the POST web site at <http://post.nv.gov> and the State of Nevada Department of Administration website at <https://notice.nv.gov>.

Copies of this notice and the proposed regulation will also be mailed to members of the public at no charge upon request.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

The Notice of Intent to Act Upon Regulations and the proposed regulation have been sent to all criminal justice agencies on the Commission on POST Listserv list and posted at the following locations:

**Commission on POST Administrative Office
Carson City, NV 89701**

<http://post.nv.gov>

<http://notice.nv.gov>

<http://leg.state.nv.us>

NOTE: We are pleased to make reasonable accommodations for members of the public with disabilities who wish to attend the meeting. If special arrangements for the meeting are necessary, please notify the Commission on POST, in writing, at 5587 Wai Pai Shone Avenue, Carson City, Nevada 89701, or call Chief Kathy Floyd at (775) 687-7678, Extension 3335, no later than five working days prior to the meeting.

**SEE ATTACHED COPIES OF THE PROPOSED
REGULATIONS**

PROPOSED REGULATION OF THE PEACE OFFICERS’

STANDARDS AND TRAINING COMMISSION

LCB File No. R004-23

July 17, 2023

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

AUTHORITY: §1, NRS 289.510.

A REGULATION relating to peace officers; revising provisions concerning standards for the appointment of peace officers; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law creates the Peace Officers’ Standards and Training Commission and requires the Commission to adopt regulations establishing minimum standards for the certification and decertification, recruitment, selection and training of peace officers. (NRS 289.500, 289.510) Existing regulations prohibit a person from being appointed to perform the duties of a peace officer if the person has, among other things, been convicted of an offense involving moral turpitude or the unlawful use, sale or possession of a controlled substance. (NAC 289.110, as amended by section 1 of Adopted Reg. of Peace Officers’ Standards & Training Comm’m, LCB File No. R078-21) This regulation exempts from this prohibition a person who has been convicted of an offense involving the unlawful use, sale or possession of marijuana if the offense is not unlawful at the time the person submits an application for certification as a peace officer.

Section 1. NAC 289.110 is hereby amended to read as follows:

289.110 1. No person may be appointed to perform the duties of a peace officer unless he or she:

- (a) Has undergone a complete and documented investigation of his or her background which verifies that the person has good moral character and meets the minimum standards established by the Commission;
- (b) Is a citizen of the United States;

(c) Is at least 21 years of age at the time of the appointment;

(d) Has:

(1) Graduated from high school;

(2) Passed the General Educational Development Test or another high school equivalency assessment approved by the State Board of Education; or

(3) Passed a high school equivalency assessment approved by an appropriate authority in another state; and

(e) Has undergone a medical examination performed by a licensed physician who confirms in writing that no physical condition exists which would adversely affect his or her performance of the duties of a peace officer. The employing agency shall inform the examining physician of the specific functions required by the position to be filled.

2. The investigation of the background of a person required pursuant to subsection 1 must include, without limitation:

(a) An investigation of the current and past employment history of the person, including, without limitation, an examination of the duties that have been assigned to the person and any performance evaluations of the person;

(b) An inquiry into the criminal history of the person in the State of Nevada and in any other state where the person is known to have resided, which must include, without limitation, any warrants issued for the person and the submission of the person's fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report;

(c) An inquiry to the Department of Motor Vehicles and the appropriate entity in each other state in which the person is known to have resided regarding any driver's licenses the person has held and the driving record of the person;

(d) A financial history of the person;

(e) The educational background of the person;

(f) The history of any military service of the person;

(g) A history of each physical address where the person has resided;

(h) A drug screening test;

(i) A psychological evaluation;

(j) The use of a lie detector as defined in NRS 613.440 for a peace officer being appointed as a category I, category II or reserve peace officer; and

(k) An evaluation to identify any implicit bias the person may have on the basis of race, color, religion, national origin, physical or mental disability, sexual orientation or gender identity or expression.

3. The investigation of the background of a person required pursuant to subsection 1 may include the use of a lie detector as defined in NRS 613.440 for a peace officer being appointed as a category III peace officer.

4. ~~{A}~~ *Except as otherwise provided in subsection 5, a* person may not be appointed to perform the duties of a peace officer if he or she has:

(a) Been convicted of a felony in this State or of any offense which would be a felony if committed in this State;

(b) Been convicted of an offense involving moral turpitude or the unlawful use, sale or possession of a controlled substance;

(c) A documented history of physical violence; or

(d) Resigned in lieu of termination or been terminated from any civil service employment for substantiated misconduct involving dishonesty, and has not been reinstated as a result of a judicial action or any available appeal or remedy relating to the resignation or termination, including, without limitation, any civil service appeal, direct administrative appeal or collective bargaining remedy. For purposes of this paragraph, “dishonesty” includes untruthfulness, deception, misrepresentation, falsification, and dishonesty by admission or omission.

5. The provisions of subsection 4 do not apply to a person who has been convicted of an offense involving the unlawful use, sale or possession of marijuana if the offense is not unlawful at the time the person submits an application for certification as a peace officer.