



DEPARTMENT OF BUSINESS AND INDUSTRY
NEVADA TRANSPORTATION AUTHORITY

DEPARTMENT OF BUSINESS AND INDUSTRY

NOTICE OF INTENT TO ACT UPON A REGULATION
and
NOTICE OF HEARING FOR THE ADOPTION OF REGULATIONS

The Nevada Transportation Authority ("Authority") will hold a public hearing **at 10:00 a.m. on Thursday, December 8, 2022** regarding the regulation which has been designated as Docket Number 21-09007 by the Authority.

The public and persons wishing to comment on the proposed action of the Authority may appear at this hearing at either:

The Department of Business and Industry
3300 West Sahara Avenue, 4th Flr, Room 400
Las Vegas, Nevada 89102

Nevada Transportation Authority
1755 E. Plumb Lane, Suite 229
Reno, Nevada 89502

The purpose of the hearing is to receive comments from all interested persons and for the Authority to take action regarding the adoption of regulations that pertain to chapter 706 of the Nevada Administrative Code.

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

1. The proposed enactment of certain regulations in Nevada Administrative Code Chapter 706 are necessary to fulfill the Legislature's mandate as set out in NRS 706.4477(7).
2. The full text of the proposed regulation is attached to this notice. The substance of the regulation establishes the different circumstances which can result in the registered owner of a towed vehicle being unable to pay the full cost of a tow and storage of the person's vehicle. The regulation also sets out the evidence that must be accepted as proof of a circumstance and also the hardship tariff discount that must be applied to the total cost of the towing and storage of the vehicle.
3. The estimated impact of the regulations:
 - a. The proposed regulations will have a significant adverse economic impact upon the regulated industry, both immediately and in the long-term.
 - b. The proposed regulations will have a significant beneficial economic impact upon the members of the public who fulfill the requirements of the regulation, both immediately and in the long-term.

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4. The Authority determined the impact on small business, pursuant to NRS 233B.0608, by meeting with members of the industry prior to drafting the regulation's language, by analyzing the verbal comments from businesses which will be affected by the proposed regulations during a workshop held on July 8, 2022. Additionally, the Authority reviewed and implemented changes to the regulation's language after receipt of a written comment submitted by an attorney on behalf of an industry association.
5. The Authority anticipates minor additional enforcement and regulatory oversight expenses based on the fact that this is a new regulation which may be violated and will need to be investigated and enforced by the Authority.
6. The Authority is not aware of any overlap or duplication of the proposed regulations with any regulations of other state or local governmental agencies.
7. The proposed regulations are not required pursuant to federal law.
8. The proposed regulations are not more stringent than any federal regulation that regulates the same activity.
9. The proposed regulations do establish a new fee (a discount) but do not increase an existing fee.

A copy of all materials relating to the proposed regulation is available for review at the offices of the Authority at the above noted addresses.

Additionally, a copy of all materials related to the proposed regulation may be obtained:

1. At the location and time of the hearing; or,
2. By contacting Patricia M. Erickson, Administrative Attorney, Nevada Transportation Authority, 3300 W. Sahara Ave., Suite #200, Las Vegas, Nevada 89102, (702) 486-8722, perickson@nta.nv.gov

Persons wishing to comment on the proposed action of the Authority may provide their comments, data, views or arguments, in written form to the Authority. Written submissions must be received by the Authority on or before **December 1, 2022**.

AGENDA

- 1. Call to Order**
- 2. Roll Call**
- 3. Pledge of Allegiance**
- 4. Public Comment** – Members of the public are invited to comment on items on the meeting agenda or on items not contained therein. No action may be taken on a matter raised during public comment until the matter itself has been specifically included on an agenda as an item for possible action.
- 5. Approval of Agenda – *FOR POSSIBLE ACTION***

DISCUSSION ITEM / RULEMAKING ADOPTION

6. The Nevada Transportation Authority will consider adoption of a new regulation – NAC 706.411 – establishing the life circumstances outside of a vehicle owner's control which requires a hardship tariff discount, the evidence that must be accepted and the required discount as required by NRS 4477(7). A copy of the proposed regulation is attached.
FOR POSSIBLE ACTION

- 7. Public Comment** – Members of the public are invited to comment on items on the meeting agenda or on items not contained therein. No action may be taken on a matter raised during public comment until the matter itself has been specifically included on an agenda as an item for possible action.

8. Adjournment

In accordance with Nevada's Open Meeting Law, the Authority may consider agenda items taken out of order. The Authority may combine two or more agenda items for consideration. The Authority may remove an item from the agenda or delay discussion relating to an item on the agenda at any time. The Authority may continue the meeting as deemed necessary. The Authority, at its discretion, may take public comment during times other than the designated Public Comment agenda items. The Authority reserves the right to limit public comment to three minutes. Comment may not be restricted based on viewpoint.

This Notice of Hearing and Intent to Adopt Proposed Regulation has been sent to all persons on the Authority's mailing list for administrative regulations, to all Transportation Network Companies, to all passenger motor carriers licensed by the Authority, and has been posted at the following locations:

Clark County Court House, 200 Lewis Avenue, Las Vegas, NV 89101
Washoe County Court House, 75 Court Street, Reno, NV 89501
Nevada State Library & Archives, 100 North Stewart Street, Carson City, NV 89701
Department of Business and Industry, 3300 W. Sahara Ave., Suite #425, Las Vegas, NV 89102
Department of Business and Industry, 1830 College Parkway, Suite #100, Carson City, NV 89706
Nevada Transportation Authority, 3300 W. Sahara, Suite #200, Las Vegas, NV 89102
Nevada Transportation Authority, 1755 East Plumb Lane, Suite #229, Reno, NV 89502
Nevada Transportation Authority website: www.nta.nv.gov
Nevada State Legislature Website: www.leg.state.nv.us

Pursuant to NRS 233B.064: 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 the reason for overruling the consideration urged against the adoption.

NOTE: The Authority is pleased to make reasonable accommodations and will assist and accommodate people with a disability who wish to attend its meetings and hearings. If special arrangements are necessary, please contact the Authority in Las Vegas at (702) 486-3303 or in Reno at (775) 688-2800 as far in advance of the hearing as possible.

PROPOSED TEMPORARY REGULATION
NEVADA TRANSPORTATION AUTHORITY
NTA Docket Number 21-09007

Authority: NRS 706.171(1)(a); NRS 706.4477(7)

PURPOSE: In accordance with NRS 706.4477(7) the Authority shall adopt regulations to carry out the provisions of NRS 706.4477 section 7, including, without limitation, establishing a hardship tariff discount, what circumstances require the application of the hardship tariff discount and the documents which must be accepted as evidence of the hardship.

NAC 706.411 Reasons Outside of Vehicle Owner's Control Requiring Hardship Tariff Discount; Evidence That Must be Accepted; Required Discount (NRS 706.171, 706.4477)

1. If towing is, based in part on a registration violation, from a residential complex at the request of the owner or the authorized agent of the owner of the residential complex or the tow operator who has a contract with the owner of the residential complex; and
 - (a) At the time of the tow, the vehicle owner does not provide proof that the vehicle was registered:
 - a. Pursuant to NRS 706; or,
 - b. Pursuant to NRS 482; or
 - c. In any other state; and
 - (b) The registered owner of the towed vehicle is incapable of paying the present rate charged for the removal and storage of the motor vehicle based upon the following circumstances occurring within four (4) months prior to the date of the tow, the registered owner is eligible for the hardship discount:
 - a. Loss of employment; or,
 - b. Reduction of employment either in the number of hours worked or the amount being paid; or,
 - c. Death of a household member who was also providing income to the household; or,
 - d. Homelessness; or,
 - e. Permanent disability or Partial disability; or,
 - f. Present incarceration of a household member who previously provided income to the household within the prior four (4) months; or,

g. Receipt of any kind of assistance from a city, county, state and, or federal agency, including but not limited to:

1. Social Services from any County in Nevada; or,
2. Children's Health Insurance Program (CHIP); or,
3. Nevada Check Up; or,
4. Supplemental Nutritional Assistance Program (SNAP); or,
5. Temporary Assistance for Needy Families (TANF); or,
6. Nevada Department of Health and Human Services – Division of Welfare & Supportive Services; or,
7. Nevada Department of Health & Human Services – Aging & Disability Services Division; or
8. Nevada Department of Veteran's Services; or,
9. United States Department of Defense Military Disability Benefits; or,
10. Federal Medicaid program; or,
11. Nevada Medicare program; or,
12. Federal Women, Infant & Children (WIC) program.

1. Evidence which must be accepted as proof that the owner is incapable of paying the normal rate charged for removal and storage of a vehicle and is eligible for the hardship discount:

a. Loss of employment:

1. Any document, issued by the State of Nevada's Department of Employment, Training and Rehabilitation, establishing receipt of unemployment funds/benefits at the time of the tow or within the four (4) months prior to the tow.

b. Reduction of employment or income by at least ten percent (10%):

1. By a prior pay check or payroll document from up to six (6) months before the date of the tow, and,
2. A pay check or payroll document received within three (3) months before the tow.

c. Loss of household income from death, or disability, or incarceration or reduction in household size:

1. Death certificate, or disability document from an attorney or any city, county, state or federal agency, or proof of current incarceration of household member AND,
2. Tax document, from up to one (1) year before the date of the tow, establishing household income, or,
3. Any other documents establishing household income four (4) months before the tow and the household income at the time of the tow.

d. Homelessness:

1. A photograph of the towed vehicle, up to three (3) months before the tow date, which clearly shows a majority of items a person would have in/at a residence are inside the vehicle at the time of the tow; or,
2. Contents of vehicle which are clearly a majority of items a person would have in/at a residence and are now found within the vehicle; or,
3. Any document establishing receipt of services/assistance, in the form of food, housing, medical care and/or monies, from any city, county, state or federal agency or charitable organization.

e. Permanent or Partial disability:

1. Any document from a county, state or federal agency establishing receipt of any kind of assistance based on a permanent or partial disability.

3. Hardship Tariff Discount:

A thirty percent (30%) discount of the cost of removal and storage of the vehicle if the registered owner provides the evidence required for a hardship discount within five (5) calendar days of the tow AND retrieves the vehicle within five (5) calendar days from the date the tow occurred.

4. An operator of a tow car shall include the following notice on (1) any bill, invoice or receipt provided to any person seeking release of a vehicle and, (2) on signage which is prominently posted at the location where payment is made for the cost of removal and/or storage of a vehicle:

IMPORTANT

If you have a life circumstance which impacts your present ability to pay the total cost of the removal and storage of your vehicle AND YOUR VEHICLE WAS TOWED FROM A RESIDENTIAL COMPLEX BASED, IN PART, ON YOUR INABILITY TO PROVIDE PROOF OF VEHICLE REGISTRATION, you MAY be eligible for a hardship tariff discount.

Whether your circumstance makes you eligible for the hardship tariff discount is set out in NAC 706.411. Upon request, (INSERT NAME OF CARRIER) can provide this information to you before completion of payment for the removal and storage of your vehicle.

- a. The above language may be stamped onto the bill, invoice or receipt provided to the person seeking release of a vehicle as long as the same language is stamped on the document retained by the carrier so that it is available for inspection by the Authority as required by NAC or NRS 706.



DEPARTMENT OF BUSINESS AND INDUSTRY
NEVADA TRANSPORTATION AUTHORITY

Small Business Impact Statement (NRS 233B.0608 and 233B.0609)

1. Manner in which comment was solicited from affected small businesses, a summary of the response and an explanation of the manner in which interested persons may obtain a copy of the summary:

Answer: On September 30, 2021, the NTA conducted a public hearing/workshop regarding the development of a hardship discount as required by AB 301. A copy of AB 301 was provided to the hearing participants. Thirty (30) persons attended the hearing/workshop and ten (10) individuals provided their thoughts on the potential hardship discount. A lengthy discussion ensued regarding permissible tows within residential complexes for expired registration, lack of license plates, unregistered vehicles, out of state vehicles, etc.

On April 23, 2022, the NTA was informed that a new towing association – the Nevada State Towing Association (NSTA) - had been formed and members of the Authority were invited to attend the first meeting on May 6, 2022. On May 5, 2022, an outline was prepared for the meeting which explained the steps that would need to be taken to determine whether the hardship discount would be required. The executive director of NSTA had this outline printed and available for the 35 members who attended the May 6, 2022 meeting. At the meeting, the outline was explained and questions were answered. A request was made, to the meeting attendees, to send answers to the questions posed in the outline to help the NTA write a regulation with the least economic impact. The NTA did not receive any responses.

On May 18, 2022, the NTA contacted the executive director of NSTA regarding the fact that no responses had been received to help write the least financially impactful regulation. On that date, the NTA outline was emailed to all of the members of NSTA.

On June 2, 2022, the NTA received information from the NSTA explaining the difficulty of determining the economic impact on all non-consent tow operators based on the different sizes of operations and different costs associated with individual operations. It was suggested that a 10% discount would be punitive to less profitable tow operators and also painful for all other operators.

A second approach to determining the amount of the hardship discount was suggested. Treat the hardship discount in the same manner as a stolen vehicle which has a specified rate reduction; the storage fees for a proven hardship would be reduced by 50% if the towed vehicle was retrieved by the registered owner within five (5) days of the tow.

Finally, definitions of what a hardship is and what documents would be required to prove eligibility for the discount were suggested. Two of the four proposed definitions required the registered owner provide documents from the Internal Revenue Service which would, in all likelihood, not be available to the vehicle owner within five days. This would negate the second approach to determining the amount of the discount as suggested by the NSTA.

On July 8, 2022, a workshop was conducted by the NTA. At the workshop, the language of the proposed regulation was available for review as was the SBIS. The proposed regulation included two (2) options regarding how the amount of the discount could be determined.

OPTION ONE:

If the same vehicle is towed by the same operator within one (1) year:

For the first tow, the discount is thirty percent (30%) of the cost of removal and storage of the vehicle;

For the second tow, the discount is forty percent (40%) of the cost of the removal and storage of the vehicle;

For the third and any subsequent tow, the discount is fifty percent (50%) of the cost of removal and storage of the vehicle.

OPTION TWO:

A fifty percent (50%) discount of the cost of removal and storage of the vehicle if the owner retrieves the vehicle within five (5) days from the date the tow occurred.

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Fourteen (14) persons attended the workshop and many could not understand why the NTA was going to adopt a regulation of this kind when the participants, themselves, were having financial difficulties. The participants were informed that the legislation had been passed and the NTA had been tasked with preparing this regulation regarding the amount of the hardship discount and the kinds of evidence that would need to be accepted.

Additionally, there was significant discussion regarding the two (2) different methods that the hardship discount could be determined. The vast majority of the persons attending the workshop indicated they preferred Option Two but urged that the discount be thirty percent (30%) rather than fifty percent (50%). The participants also requested that the evidence supporting a hardship must be provided within the five (5) calendar days after the tow occurred based on the timing associated with the lien sale process. Both of these changes have been made to the final language of the regulation.

At the end of the workshop, the participants were asked to provide any further information regarding the hardship regulation in writing by July 15, 2022.

On July 15, 2022, the NTA received written “Comments” from an on behalf of the NSTA. All of those suggestions were considered and many changes to the regulation’s language were made. However, not always to the extent that the “Comments” proposed.

The summary of the actions and responses can be obtained by contacting Patricia Erickson at email address perickson@nta.nv.gov; phone number 702-486-8722.

2. The manner in which the analysis was conducted:

Answer: An NTA financial analyst reviewed the records kept by the NTA regarding the identity of the tow operators who have authority to engage in non-consent towing. The NTA has authorized ninety (90) tow operators to complete non-consent towing.

Next, the financial analyst determined the number of vehicles each tow operator has in its fleet. The NTA data establishes that the ninety (90) tow carriers are operating 622 tow trucks. Finally, the financial analyst reviewed the tariff information that has been provided to the NTA from each regulated tow operators.

After the workshop and based on the 30% hardship discount, the financial analyst recalculated the economic effect of the regulation on the businesses regulated by the NTA as set out below.

3. The estimated economic effect of the proposed regulation on the small businesses which the NTA regulates:

- A. The adverse effects:

Answer: The new hardship discount regulation will have an adverse impact on non-consent tow carriers because it will reduce revenues as follows:

When the registered owner of a towed vehicle provides evidence that the person fulfills the requirements for the hardship discount within five (5) calendar days of the tow and retrieves the vehicle within five (5) calendar days, the tow carrier must reduce the entire tow and storage bill by thirty percent (30%).

Extrapolating the thirty percent (30%) discount on an average tow bill**, a tow operator may lose:

\$86 per tow bill and \$2 per loaded mile for sedans, trucks, and SUVs; or,
\$178 per tow bill and \$3 per loaded mile for RVs, tractors, and trailers.

The exact financial effect cannot be quantified because the NTA has no financial records/database from individual tow carriers. Moreover, while the NTA specifically requested financial information from the tow operators to help complete this financial analysis, nothing of any substance was received in response to this request. Therefore, a “per tow bill” and “per loaded mile” were extrapolated using current tariff rates from all of the 90 non-consent tow operators.

** Assumptions made:

- Average tow bill is \$286 for sedans, trucks, SUVs and \$592 for RVs, tractors, trailers and \$8 and \$9 per loaded mile, respectively, statewide.
- Average tow bill consisted of only the hookup rate and two days of storage. Other tariff rates applicable but were not included are: (1) set out, (2) lot visit, and (3) tape.

- B. The beneficial effects:

Answer: None.

C. The direct effects:

Answer: Less income for each non-consent tow completed when the vehicle's registered owner fulfills the definition of having a life circumstance/hardship outside the person's control which makes the person incapable of paying the normal rate for the removal and storage of that vehicle.

Increased cost to update tow operator's invoices – which can be accomplished through use of a stamp - to specifically advise vehicle owners about the availability of the hardship discount.

Additionally, there will be increased costs based on the requirement to obtain new signage, specifically advising vehicle owners about the potential availability of a hardship discount, which must be posted inside the tow operator's domicile at the location where payment is made.

D. The indirect effects:

Answer: If the registered owner of a towed vehicle does not appear at the tow operator's office to obtain release of the vehicle, no hardship discount will be applied to the towing/storage fees and the tow operator may complete the lien sale process for the entire amount owed for the towing/storage.

4. Description of the method that the NTA considered to reduce the impact of the proposed regulation on small businesses and a statement regarding whether the NTA actually used these methods such as:

- A. Simplifying proposed regulation
- B. Different standards of compliance for small business
- C. Modifying fee so that a small business is authorized to pay a lesser fee

Answer: The NTA considered all of the above methods to reduce the financial impact of the regulation on small businesses. However, the vast majority of tow operators, regulated by the NTA, are "small businesses" and the language of AB 301 does not allow for any reduction – it has to apply to all non-consent tow operators regardless of whether the entity has more than or less than 150 employees.

5. The estimated cost to the NTA for enforcement of the proposed regulation:

Answer: De minimus.

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6. If the proposed regulation provides for a new fee or increases an existing fee, the total annual amount the NTA expects to collect and the manner in which the money will be spent:

Answer: The proposed regulation requires regulated non-consent tow operators to provide a specific discount on the cost associated with the tow and storage of a vehicle. Therefore, the NTA will not be collecting or spending any money.

7. Does the proposed regulation include provisions which duplicate or are more stringent than federal, state or local standards regulating the small activity:

Answer: No.

8. The reasons for the NTA conclusions regarding the impact of the regulation on small businesses:

Answer: The language of AB 301 requires a discount be given by a tow operator if the vehicle's registered owner establishes eligibility for the discount based on defined circumstances outside the control of the vehicle owner and presentation of the required proof of the circumstance. There isn't any flexibility in the language of AB 301. As a discount is required, there will be an economic impact on all tow operators who complete non-consent tows of vehicles registered to a person who has a defined hardship and provides evidence to establish the hardship.

I certify that, to the best of my knowledge and belief, a concerted effort was made to determine the impact of the proposed regulation on small businesses and that the information contained in this statement was prepared properly and is accurate.

Dated this 2nd day of November, 2022.



Dawn Gibbons, Chair
Nevada Transportation Authority