

**ADOPTED REGULATION OF THE
NEVADA TRANSPORTATION AUTHORITY**

LCB File No. R012-12

Effective June 29, 2012

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

AUTHORITY: §§1-3 and 5, NRS 706.171; §4, NRS 706.171, 706.173 and 706.475.

A REGULATION relating to motor carriers; revising provisions governing the method by which certain fees and fines are paid to the Nevada Transportation Authority; removing providers of air transport service from the requirement to hold up or display a sign while on duty at a passenger curb loading zone; revising provisions concerning medical certificates for drivers of traditional or livery limousines and drivers of certain taxicabs; repealing provisions governing the lease of motorized equipment and vehicles by motor carriers; repealing a provision requiring certain buses to have certain signage attached to the front of the bus; repealing certain provisions governing the time schedules of motor carriers; repealing various other provisions governing motor carriers; and providing other matters properly relating thereto.

Section 1. NAC 706.132 is hereby amended to read as follows:

706.132 1. A fee or remittance by money order, bank draft or check to the Authority , *or by an electronic transfer of money for fees or remittances which are equal to, or greater than, the amount specified in NRS 353.1467*, must be made payable to the “Nevada Transportation Authority.” A remittance in currency or coin is acceptable but is sent wholly at the risk of the remitter, and the Authority assumes no responsibility for the loss of such a remittance. An application fee or other charge required by law must be paid to the Authority at the time of filing with the Authority.

2. An administrative fine imposed pursuant to NRS 706.476 for the impoundment of a vehicle must be paid by cash, cashier’s check , or money order *[.] or, if the administrative fine is*

equal to, or greater than, the amount specified in NRS 353.1467, by the electronic transfer of money.

Sec. 2. NAC 706.228 is hereby amended to read as follows:

706.228 1. A certificate holder who is a fully regulated carrier or his employee shall not solicit passengers.

2. A certificate holder or his employee may:

(a) Answer questions posed by a potential passenger if the conversation is initiated by the potential passenger;

(b) Advertise on the side of a vehicle or on permanently located signs;

(c) Provide brochures in permanently mounted racks or stands;

(d) Establish booths in airports, hotels or other locations;

(e) Advertise in the media or through direct mailing;

(f) Conduct any other marketing activity which has been determined not to be solicitation by the Nevada Transportation Authority; or

(g) When engaged in the business of transferring persons from an airport, greet potential passengers using one of the following phrases:

- (1) "May I help you?"
- (2) "Good morning."
- (3) "Good afternoon."
- (4) "Good evening."

3. While on duty at any passenger curb loading zone, a certificate holder who is authorized to provide ~~airport transport service,~~ charter service by limousine or special services, or his employee, shall hold up or display a sign which is visible to the public that:

- (a) Must be not more than 18 by 24 inches in size;
- (b) Contains the company name, the “CPCN” number and the words “For Hire”; and
- (c) Contains the approved rates for the vehicle in letters not less than 2 inches in height in sharply contrasting colors which are legible from a distance of at least 50 feet,
 - unless the certificate holder or his employee is waiting for a passenger who has arranged for the transportation by reservation or is seeking a specific passenger who has requested that the vehicle be dispatched to the location.

4. While on duty, a certificate holder who is a fully regulated carrier or his employee shall not stand a vehicle or park a vehicle within 50 feet of a designated taxicab stand unless:

- (a) The taxicab stand is located at an airport owned by a governmental entity; or
- (b) The Chairman or his designee has authorized the certificate holder to stop or park the vehicle within 50 feet of the designated taxicab stand.

5. While on duty, a certificate holder who is a fully regulated carrier or his employee shall not stand within 50 feet of a designated taxicab stand unless:

- (a) The taxicab stand is located at an airport owned by a governmental entity; or
- (b) The Chairman or his designee has authorized the certificate holder to stop or park within 50 feet of the designated taxicab stand.

6. As used in this section:

- (a) “Passenger curb loading zone” has the meaning ascribed to it in NRS [\[484.109.\]](#)

484B.033.

- (b) “Solicit” includes, without limitation, inducing or attempting to induce persons by communication or other action to be transported. The term includes, without limitation:

- (1) Except as otherwise provided in subsection 2, initiating conversation with potential passengers;
- (2) Shouting information;
- (3) Waving signs;
- (4) Waving arms or hands;
- (5) Flashing lights;
- (6) Ringing bells;
- (7) Blowing horns;
- (8) Blocking access to other motor carriers; or
- (9) Except as otherwise provided in subsections 2 and 3, any other activity designed to attract passengers,

→ unless the passenger has arranged for the transportation by reservation or the driver is seeking a specific passenger who has requested that the driver's vehicle be dispatched to the location.

Sec. 3. NAC 706.229 is hereby amended to read as follows:

706.229 1. In addition to the applicable requirements set forth in 49 C.F.R. §§ 391.1, 391.2, 391.11(a), 391.11(b)(1) to 391.11(b)(4), inclusive, 391.11(b)(6), 391.11(b)(7), 391.11(b)(8), 391.13, 391.15, 392.2, 392.3, 392.4, 392.5 and 392.9 and 49 C.F.R. Parts 40, 382, 390, 393 and 397, a certificate holder shall not allow an employee to drive a traditional limousine or livery limousine unless the employee:

- (a) Is at least 21 years of age and has a valid Nevada driver's license or is a border state employee, as that term is defined in NRS 483.035;
- (b) Provides to the certificate holder, on or before the date on which the employee becomes employed by the certificate holder as the driver of a traditional limousine or livery limousine:

(1) A certificate from a licensed physician ~~[which is dated not more than 90 days before the date on which the employee becomes so employed by the certificate holder and]~~ which demonstrates that the employee is physically qualified to operate a commercial motor vehicle in accordance with 49 C.F.R. § 391.43; and

(2) A copy of the driving record of the employee which is obtained from the Department and which demonstrates that the employee has not, within the 3 years immediately preceding the date on which the employee becomes so employed by the certificate holder:

- (I) Been convicted of driving under the influence of an intoxicating liquor or a controlled substance;
 - (II) Been convicted of reckless driving;
 - (III) Been convicted of failing to stop and remain at the scene of an accident; or
 - (IV) Failed to keep a written promise to appear in court for any offense; and
- (c) Within the 3 years immediately preceding the date on which the employee submitted to the certificate holder an application to be a driver of a traditional limousine or livery limousine:

- (1) Has not failed to appear for a hearing before the Authority which resulted in the employee being found to have violated a provision of this chapter or chapter 706 of NRS;
- (2) Has not been found by the Authority to have violated the provisions of this chapter or chapter 706 of NRS more than five times; and
- (3) Has not failed to pay on or before the due date any fine assessed against the employee by the Authority.

2. Each employee shall update annually the documents required pursuant to paragraph (b) of subsection 1.

3. A certificate holder shall retain a copy of each document submitted by an employee pursuant to this section for at least 3 years after his employment has terminated.
 4. The Authority will create and maintain a list of persons who are not qualified to drive a traditional limousine or livery limousine pursuant to paragraph (c) of subsection 1.
- Sec. 4.** NAC 706.3751 is hereby amended to read as follows:
- 706.3751 1. In addition to the applicable requirements set forth in 49 C.F.R. §§ 391.51, 392.2, 392.4, 392.5 and 392.9 and 49 C.F.R. Parts 390, 393 and 397, a certificate holder shall not allow an employee or independent contractor of the certificate holder to drive a taxicab that the certificate holder is authorized to operate unless the employee or independent contractor:
 - (a) Is at least 21 years of age and has held for at least 30 days a valid Nevada driver's license or is a border state employee, as that term is defined in NRS 483.035;
 - (b) Provides to the certificate holder, on or before the date on which the employee becomes employed by the certificate holder as the driver of a taxicab or the independent contractor begins to lease a taxicab from the certificate holder pursuant to NRS 706.473:
 - (1) A certificate from a licensed physician [which is dated not more than 90 days before the date on which the employee becomes employed by the certificate holder as the driver of a taxicab or the independent contractor begins to lease a taxicab from the certificate holder pursuant to NRS 706.473.] which demonstrates that the employee or independent contractor is physically qualified to operate a commercial motor vehicle in accordance with 49 C.F.R. § 391.43; and
 - (2) A copy of the driving record of the employee or independent contractor which is obtained from the Department and which demonstrates that the employee or independent contractor has not, within the 3 years immediately preceding the date on which the employee

becomes employed by the certificate holder as the driver of a taxicab or the independent contractor begins to lease a taxicab from the certificate holder pursuant to NRS 706.473:

- (I) Been convicted of driving under the influence of an intoxicating liquor or a controlled substance;
 - (II) Been convicted of reckless driving;
 - (III) Been convicted of failing to stop and remain at the scene of an accident; or
 - (IV) Failed to keep a written promise to appear in court for any offense; and
- (c) Within the 3 years immediately preceding the date on which the employee or independent contractor submitted an application to the certificate holder to drive a taxicab:
- (1) Has not failed to appear for a hearing before the Authority which resulted in the employee being found to have violated a provision of this chapter or chapter 706 of NRS;
 - (2) Has not been found by the Authority to have violated the provisions of this chapter or chapter 706 of NRS more than five times; and
 - (3) Has not failed to pay on or before the due date any fine assessed against the employee by the Authority.
2. Each employee or independent contractor shall update annually the documents required pursuant to paragraph (b) of subsection 1 and submit the updated documents to the certificate holder.
3. A certificate holder shall retain a copy of each document that the employee or independent contractor submitted to the certificate holder pursuant to this section until 3 years after the employee's employment has terminated or the independent contractor's lease has expired.

4. The Authority will create and maintain a list of persons who are not qualified to drive a taxicab pursuant to paragraph (c) of subsection 1.

Sec. 5. NAC 706.025, 706.215, 706.221, 706.224 and 706.227 are hereby repealed.

TEXT OF REPEALED SECTIONS

706.025 “Business district” defined. (NRS 706.171) “Business district” means the territory contiguous to and including a highway when, within any 600 feet along the highway, there are buildings in use for business or industrial purposes, including, but not limited to, hotels, banks or office buildings, railroad stations and public buildings which occupy at least 300 feet of frontage on one side or 300 feet collectively on both sides of the highway.

706.215 Leases by private motor carriers. (NRS 706.171)

1. Every lease of motorized equipment by a private motor carrier must be in writing, dated and signed by the parties thereto, or their regular employees or agents authorized to act for them in the execution of contracts, leases or other arrangements.

2. If a shipper leases a motor vehicle for use in the transportation of its products or goods, the leased vehicle must be placed in the complete possession and control and operated by the lessee’s own driver under the lessee’s sole and complete direction, control and responsibility.

3. The driver must be the lessee’s employee and subject to the complete control and direction of the lessee. There may be no connection between the lessor of the vehicle and the employment of the driver. The lessee must in actual practice be free to:

- (a) Place any driver of its choice on the equipment;
 - (b) Terminate the employment of any driver without affecting the lease;
 - (c) Exercise its own discretion in assigning work to drivers;
 - (d) Improve and enforce rules on working and driving;
 - (e) Adjust salaries without regard to payments for the lease; and
 - (f) Deal with the driver as it does with its regular employees.
- Merely placing a driver on the payroll of the lessee or stating in the lease that the driver is an employee of the lessee is not sufficient.

4. The lessee must be responsible to the public for accidents arising out of the negligent operation of the equipment and for the cost of insurance, taxes for the highways and taxes on fuel, fuel and operating expenses.

5. The compensation paid for any leased vehicle:

- (a) Must be fixed at the inception of the lease;
- (b) Must include a specific sum for the duration of the lease; and
- (c) May not be based on a division or percentage of the applicable rate for the transportation of a commodity in the vehicle during the period of the lease.

6. If:

- (a) A driver is furnished, selected or specified by the lessor;
- (b) The lessor reserves the right to furnish, select or specify a driver; or
- (c) The continuation of the lease is contingent upon the use of the lessor or a person he designates as a driver,

→ it will be presumed that the driver is the lessor's driver, that the lessor is operating as a common motor carrier and that the lease is improper.

7. A private motor carrier shall not enter into any lease for equipment for less than 30 days or for one trip only, either one-way or for a round trip.

8. The driver of a vehicle leased by a private motor carrier shall not have a financial interest in the vehicle.

9. A copy of the lease must be carried in the vehicle at all times and the vehicle must be identified pursuant to NAC 706.170 as operated by the lessee. No work may be performed pursuant to an expired lease.

706.221 Buses: Sign designating destination or service provided. (NRS 706.171) Each bus operated over a regular route or between fixed destinations must have attached to the front of the bus a sign with letters or figures not less than 3 inches in height designating the destination of the vehicle or service provided by the vehicle, unless otherwise ordered by the Authority. The sign may not be attached to the windshield of the bus.

706.224 Time schedules. (NRS 706.171) No vehicle to which the provisions of this section are applicable may be operated on any time schedule other than that approved by the Authority. Nothing contained in this section may be construed to prohibit the operation, in addition to the service described in the schedule in effect at the time, of special or extra trips over the route, or any part thereof, during rush hours or other extraordinary circumstances to care for additional business occasioned by an unusual condition.

706.227 Change of schedules. (NRS 706.171) The Authority reserves the right after investigation and hearing to arrange or rearrange schedules so as to prevent congestion and competition which is injurious to public welfare or to make connections with other transportation agencies. The schedule changes will be made by first giving 10 days' notice to the carrier affected.

LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED BY
NRS 233B.066
LCB FILE R012-12

The following statement is submitted for adopted amendments to Nevada Administrative Code (“NAC”) chapter 706.

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

Copies of the notice of workshop and the notice of intent to act upon the regulations were sent by U.S. mail or via facsimile to all persons on the Authority’s mailing list for administrative rulemaking and to all motor carriers licensed by the Authority. Copies of the notices of workshop and the notice of intent to act upon the regulations were also posted at all county libraries in Nevada and at the following locations:

Clark County Court House
200 Lewis Ave.
Las Vegas, NV 89155

Department of Business & Industry
555 E. Washington Blvd., Suite #4900
Las Vegas, NV 89101

Department of Business & Industry
1830 College Parkway, Suite #100
Carson City, NV 89706

Nevada State Library & Archives
100 N. Stewart St.
Carson City, NV 89701

Washoe County Court House
75 Court St.
Reno, NV 89501

Copies of all materials relating to the proposal were made available at the workshop and adoption hearing, at the offices of the Authority, on the Authority’s website at www.nta.nv.gov, and at the Nevada State Library, 100 North Stewart St., Carson City, NV.

A workshop was held on March 15, 2012. On or about February 8, 2012, the Authority issued a Notice of Intent to Act Upon a Regulation. A public hearing was held on April 18, 2012. The minutes of the workshop and the public hearing, attached hereto, contain summaries of the discussion held regarding the proposed amendments.

A copy of this summary of the public response to the proposed regulation may be obtained from the Authority, 2290 South Jones Blvd. Suite 110, Las Vegas, Nevada 89146, (702) 486-3303.

2. The number of persons who:

- a. **Attended each workshop/hearing:** March 15, 2012 — 9; April 18, 2012 — 6.

- b. **Testified at each workshop/hearing:** March 15, 2012 — 1; April 18, 2012 — 0.
 - c. **Submitted to the agency written comments:** 0.
- 3. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation of how other interested persons may obtain a copy of the summary.**

Comments were solicited from affected businesses in the same manner as they were solicited from the public. The summary may be obtained in the response to question #1 above.

- 4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reason for adopting the regulation without change.**
- 5. The estimated economic effect of the adopted regulation on the businesses 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**

The proposed revisions will have no significant adverse or beneficial economic impact upon the regulated industry, either immediately or long-term.

Drivers of limousines and taxicabs may realize minimal beneficial effects related to no longer being required to obtain a new medical certificate from a physician if the driver changes employers and said medical card was issued more than 90 days before the driver becomes employed.

Carriers authorized to provide airport transfer service may realize negligible economic benefits related to not having to produce and display signage related to rates being charged.

The foregoing economic effects on carriers and drivers are unlikely to have an economic effect on customers or the general public, either in the short or long term.

- 6. The estimated cost to the agency for enforcement of the adopted regulation.**
- 7. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates federal regulation, the name of the regulating federal agency.**

There are not any regulations of other state or government agencies which the proposed regulation overlaps or duplicates.

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

N/A

- 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.**

N/A

- 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?**

The Authority has determined that the proposed regulation does not impose a direct and significant economic burden upon small business or restrict the formation, operation or expansion of a small business. In making this determination the Authority considered that several representatives of affected small businesses were present at the workshop and at the hearing; and that at the workshops and the hearing, Chairman Andrew J. MacKay asked the participants to address any impact on small business; and that no impacts on small business were identified for the regulation as adopted. Additionally, the Authority afforded businesses additional time following the adoption hearing to submit, in writing, any impacts the proposed regulation may have; no written comments have been received.