

PROPOSED REGULATION OF THE NEVADA TRANSPORTATION AUTHORITY

LCB File No. R029-15

(This draft replaces the one posted August 4, 2015.
Changes made to secs. 11, 14 and 29, and sec. 32A added -- see underlined language)

REGULATION AND LICENSING OF TRANSPORTATION NETWORK COMPANIES

Explanation – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted

AUTHORITY: Assembly Bill No. 175 and Assembly Bill No. 176 of the 2015 Legislative Session

General Provisions

Section 1. *Definitions. (AB176, Sec. 46)* *As used in Sections 1 - 73, inclusive, unless the context otherwise requires, the words and terms defined in Sections 2 - 8, inclusive, have the meanings ascribed to them in those sections.*

Sec. 2. *“Application” defined. (AB176, Sec. 46)* *“Application” means a request for transportation network company operating authority or for relief filed with the Authority as specified in Section 11.*

Sec. 3. *“Chair” defined. (AB176, Sec. 46)* *“Chair” means the person designated as the Chair of the Authority pursuant to NRS 706.1512.*

Sec. 4. *“Commissioner” defined. (AB176, Sec. 46)* *“Commissioner” means a member of the Authority appointed pursuant to NRS 706.1511.*

Sec. 5. *“Hearing” defined. (AB176, Sec. 46)* *“Hearing” means any public proceeding for which notice is provided by the Authority in accordance with applicable statutes and regulations.*

Sec. 6. *“Longer route to the passenger’s destination” defined. “Longer route to the passenger’s destination” as used in AB176, Sec. 38(2)(c) means any route other than that which a driver knows or reasonable believes would result in the lowest fare to the passenger.*

Sec. 7. *“On call” and “on-call” defined. (AB176, Sec. 46)* *“On call” or “on-call” means any period in which a driver is logged into the digital network or software application service of the transportation network company, available to receive requests for transportation services or providing transportation services.*

Sec. 8. *“Permit” defined. (AB176, Sec. 46)* *“Permit” means a permit issued by the Authority to operate as a transportation network company.*

Sec. 9. Severability. (AB176, Sec. 46) *If any provision of Sections 1 – 73, inclusive, or any application thereof to any person, thing or circumstance is held invalid, the Authority intends that such invalidity not affect the remaining provisions, or their application, that can be given effect without the invalid provision or application.*

Sec. 10. Payment of fees, remittances and administrative fines. (AB176, Sec. 46)

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 AB176, Sec. 42 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.

Applications Relating to Permits for Transportation Network Companies

Sec. 11. Application for a transportation network company permit. (AB176, Sec. 26, AB176, Sec. 46)

1. An application for:

(a) The initial issuance of a permit to act as a transportation network company pursuant to the provisions of AB 175 and AB 176;

(b) The sale and transfer of an interest in:

(1) A permit;

(2) Fifteen percent or more of the stock of a corporation that holds a permit;

(3) A partnership that holds a permit;

(4) A corporate entity that holds a permit which would result in a change in the corporate control of the carrier;

(5) The membership of a limited liability company,

must contain the following data, either in the application or as exhibits attached thereto:

(c) A statement and general description of the type of service to be performed by the applicant, including the rates or fares to be charged and rules governing service.

(d) A statement of the qualifications and experience of the personnel who will manage and operate the proposed service.

(e) A statement describing the technology which will be used to provide the proposed service, including a description of the method for tracking and limiting drivers’ hours as required by Section 31(3).

(f) If the applicant is a corporation or limited-liability company, a copy of its articles of incorporation or articles of organization. If the corporation or limited-liability company was incorporated or established in another state, the application must include:

(1) A copy of the certificate issued by the Office of the Secretary of State authorizing the corporation or limited-liability company to transact its business in the State of Nevada; or

(2) Its equivalent, as provided in NRS 80.120.

(g) If the applicant is a partnership, a copy of the partnership agreement and any amendments made thereto.

(h) A copy of the state business license issued pursuant to chapter 76 of NRS in the applicant's name.

(i) A copy of the insurance policy meeting all the requirements set forth in AB 175 and AB 176 identifying the Nevada Transportation Authority as a named insured.

~~*(j) An application fee. In addition to the sealable portion of the application fee measured by number of drivers and set forth in Section 14, the standard fixed portion of the application fee shall be in the amount of \$300,000.00. Smaller operations wishing to self-impose a limitation on the size of their operation may choose to pay a reduced fixed portion of the application fee based on the following schedule:*~~

~~*(1) for applicants seeking authority to utilize no more than 100 vehicles cumulatively within the first 24 months after a permit is granted, \$6,000.00;*~~

~~*(2) for applicants seeking authority to utilize no more than 500 vehicles cumulatively within the first 24 months after a permit is granted, \$30,000.00;*~~

~~*(3) for applicants seeking authority to utilize no more than 1,000 vehicles cumulatively within the first 24 months after a permit is granted, \$60,000.00;*~~

~~*(4) for applicants seeking authority to utilize no more than 2,500 vehicles cumulatively within the first 24 months after a permit is granted, \$150,000.00; and*~~

~~*(5) for nonprofit applicants seeking authority limited to the transportation of elderly persons or persons with disabilities exclusively, \$600.00.*~~

(j) An application fee. Applicants shall include a fee based on the following schedule:

(1) for applicants seeking authority to utilize no more than 100 drivers within the first 24 months after a permit is granted, \$6,000.00;

(2) for applicants seeking authority to utilize no more than 500 drivers within the first 24 months after a permit is granted, \$30,000.00;

(3) for applicants seeking authority to utilize no more than 1,000 drivers within the first 24 months after a permit is granted, \$60,000.00;

(4) for applicants seeking authority to utilize no more than 2,500 drivers within the first 24 months after a permit is granted, \$150,000.00;

(5) for applicants seeking authority to utilize no more than 5,000 drivers within the first 24 months after a permit is granted, \$300,000.00;

(6) for applicants seeking authority to utilize no more than 7,000 drivers within the first 24 months after a permit is granted, \$420,000.00;

(7) for applicants seeking authority to utilize more than 8,000 drivers within the first 24 months after a permit is granted, \$500,000.00; and

(8) for nonprofit applicants seeking authority limited to the transportation of elderly persons or persons with disabilities exclusively, \$600.00.

(k) An example of the trade dress required by Section 20.

(l) Additional information as is necessary for a full understanding of the application.

2. Pending applications filed prior to the effective date of this section shall receive a credit towards the application fee due under subsection 1(j) in the amount of any prior application fee paid, with the remaining balance due within 15 days of the effective date of this section.

3. If any item required pursuant to this section or by statute is omitted or otherwise deficient after acceptance of the application or filing, the Authority will notify the applicant of the omission or deficiency, in writing, at the address of the applicant listed on the application or filing. If the applicant does not cure the omission or deficiency within 15 working days after

the issuance of that notification, the Deputy Commissioner may, at the next regular meeting of the Authority, move that the application or filing be dismissed.

4. The Authority may fix a time and place for a hearing on the application to determine whether the applicant meets the requirements for the issuance of a permit.

Permits for Transportation Network Companies

Sec. 12. Issuance of Permit. *(AB176, Sec. 27, AB176, Sec. 46)*

Upon receipt of a completed application and upon a determination by the Authority that an applicant meets the requirements for the issuance of a permit to operate a transportation network company, the Authority shall issue to the applicant within 30 days a permit to operate a transportation network company.

Sec. 13. Self-imposed restriction on permit. *(AB176, Sec. 27, AB176, Sec. 46)*

1. If an applicant chooses to self-impose a limitation on the size of their operation during the first 24 months after a permit is granted in order to pay a reduced application fee pursuant to Section 11(1)(j)(1) through 11(1)(j)(4), the permit issued by the Authority pursuant to Section 12 shall state a restriction to the appropriate total number of vehicles authorized during the first 24 months after the permit is granted.

2. If an applicant chooses to self-impose a limitation with respect to nonprofit transportation of exclusively elderly and disabled passengers in order to pay a reduced application fee pursuant to Section 11(1)(j)(5), the permit issued by the Authority pursuant to Section 12 shall state a permanent restriction to nonprofit transportation of exclusively elderly and disabled passengers.

Identification of Drivers of Transportation Network Companies

Sec. 14. Notification of Active Drivers. *(AB176, Sec. 27, AB176, Sec. 46)*

1. A person shall not enter on-call status for a transportation network company unless the transportation network company has provided notice to the Authority pursuant to this section, in a format approved by the Authority.

2. Prior to allowing a driver to initiate on-call status, a transportation network company shall notify the Authority that:

(a) The prospective driver has met all the requirements contained within AB 176, section 29; and

(b) The prospective driver has entered into either employment or a contract, or has an offer of employment or a contract;

4. The Authority will maintain a list of active drivers for whom a transportation network company has submitted the notice required by subsection 2. Notice of a driver's active status is valid for one year, but lapses if the driver ceases to be subject to an agreement as described in AB 176 Section 18(2) with the transportation network company or an agreement as described in AB 176 Section 18(2) with a different transportation network company. A transportation network company must notify the Authority within 10 days after the lapse of an agreement and new notice provided for the driver before driving for a different carrier.

~~5. For each prospective driver for whom the notice required by subsection 2 is submitted a transportation network company shall pay to the Authority:~~

~~—(a) For an original notice, a scalable portion of the transportation network company's application fee in the amount of \$50.00 per driver.~~

~~—(b) For the renewal of a notice, a scalable portion of the transportation network company's application fee in the amount of \$10.00 per driver.~~

6. Failure to provide the notice required by subsection 2 prior to a driver initiating on-call status, or providing false or inaccurate information in such notice may be grounds for citation, assessment of fines, suspension and/or revocation of authority pursuant to Section 34 and AB176, Sec. 42.

Regulatory Assessment

Sec. 15. Regulatory Assessment (AB176, Sec. 27, AB176, Sec. 46, AB176, Sec. 50)

1. Upon the expiration of one year from the date of issuance of a permit to a transportation network company pursuant to Section 12, the permitted transportation network company shall within 10 days submit to the Authority a statement of the gross operating revenue derived from the Nevada intrastate operations of the transportation network company for that year of operation. Upon receipt of that statement, the Authority shall within 10 days issue to the transportation network company a notice of annual regulatory assessment.

2. The regulatory assessment referenced in subsection 1 shall be calculated at a rate of 1% of the gross operating revenue reported in the statement from the transportation network company. The Authority shall annually reevaluate the regulatory assessment rate based upon the total revenues generated from the fixed and scalable application fees set forth in Sections 11 and 14 and the Authority's expenses for the regulation of transportation network companies.

Regulation of Transportation Network Companies Generally

Sec. 16. Required compliance and instruction. (AB176, Sec. 46) Every transportation network company shall comply with Sections 17 – 33, inclusive, and shall instruct his or her drivers, employees and agents concerned with the transportation of persons with respect thereto.

Sec. 17. No property right in grant of authority. (AB176, Sec. 46) No grant of authority for transportation network company operations carries with it the implication or intent of investing the holder with any property right.

Sec. 18. Commencement of operations. (AB176, Sec. 46)

1. Unless otherwise authorized by the Authority, each applicant for a permit, or the transfer of a permit, whose application has been granted must commence operations within 30 days after the date on which the permit was issued, or forfeits the rights granted.

2. No applicant may start operating until he or she has complied with all requirements of the law and the regulations of the Authority, unless otherwise ordered by the Authority.

Sec. 19. Use of trade or fictitious name. (AB176, Sec. 46) No carrier may use any trade name or any fictitious name without prior notice to the Authority of intent to utilize the name. The Authority may issue an Order barring the use of a fictitious name only where such use is violative of law.

Sec. 20. Identification on vehicles. (AB176, Sec. 46) *Except as otherwise provided in this section, motor vehicles operating in conjunction with a transportation network company permit shall have affixed to the lower passenger-side corner of the windshield an inconspicuous, non-transferable decal identifying the transportation network company permit number. While the driver is on-call, the vehicle shall also bear the trade dress of the transportation network company. A transportation network company shall provide an example of its chosen trade dress pursuant to Section 11(1)(k) herein and notify the Authority of any subsequent modification to its chosen trade dress.*

Sec. 21. Evidence of insurance; change in information. (AB176, Sec. 11, AB176, Sec. 46)

1. Before a permit will be issued, the applicant shall file with the Authority evidence of the necessary insurance required by AB176, Sec. 11.

2. After the Authority issues a permit to a transportation network company, the holder of the permit shall submit any change in the information required pursuant to subsection 1 to the Authority within 5 days after the change occurs.

Sec. 22. Interference with inspections. (AB176, Sec. 46) *Where any inspection, investigation or examination of any vehicle, record or documents is authorized by this chapter or Chapter ___ of the NRS, no employee, officer, driver, agent or representative of a transportation network company may interfere with, refuse, deny or hinder the Authority or its appointed representatives from making such inspection, investigation or examination.*

Sec. 23. Notification of corporate changes; approval of sale of corporate control. (AB176, Sec. 46) *All transportation network companies operating within this State under the jurisdiction of the Authority shall notify the Authority of any changes in address, or an intended sale, transfer, lease or discontinuance of operations under the authority granted them in their permit.*

Sec. 24. List of supervisory employees of transportation network company. (AB176, Sec. 46) *A permitted transportation network company shall provide to the Authority the name and contact information of one or more key supervisory or responsible persons and shall update that information as necessary. The person(s) must be authorized to act on behalf of the carrier in dealing with the Authority.*

Rates and Services

Sec. 25. Emergency Rates. (AB176, Sec. 30, AB176, Sec. 46)

1. Each permitted transportation network company shall notify the Authority of the base rate currently in use, and file with the Authority any new base rate prior to its utilization.

2. During an emergency, as defined in NRS 414.0345, a transportation network company shall not charge a rate in excess of the base rate on file with the authority upon the date of the emergency.

Sec. 26. Rates. (AB176, Sec. 46) *A driver shall not charge, demand, collect or receive a greater, lesser or different compensation for the transportation of persons or property or for any service in connection therewith than the rates applicable to the transportation as specified*

by the transportation network company software application service, other than a voluntary gratuity offered by and accepted from a passenger.

Sec. 27. Interruption of service. (AB176, Sec. 46) *Except as otherwise provided in subsection 3, a transportation network company who is subject to the provisions of Sections 1 - 73, inclusive, shall not interrupt any service established pursuant to the provisions of NRS chapter ____, inclusive, for more than 48 hours in any 180-day period without prior notice to the Authority.*

Sec. 28. Compensation for services of driver. (AB176, Sec. 46) *A driver shall not accept any form of compensation for transportation services from any person except the transportation network company, other than a voluntary gratuity offered by and accepted from a passenger.*

Drivers

Sec. 29. Prohibited acts. (AB176, Sec. 46, AB176, Sec. 38) *While providing transportation services as defined by AB 176, Sec. 20, a driver, except as authorized by the transportation network company or the Authority, shall not allow any other person within his or her vehicle unless that person is a passenger who is being transported for a fare, or the guest of such a passenger.*

Sec. 30. Driver hours of service. (AB176, Sec. 46)

1. A driver shall not under any circumstances be on-call longer than 16 cumulative hours within any period of 24 consecutive hours.

2. A driver shall not under any circumstances provide transportation services, as defined by AB 176, Sec. 20, longer than 12 cumulative hours within any period of 24 consecutive hours.

3. A transportation network company shall not knowingly require or allow any driver to violate any provision of subsection 1 or 2.

4. A transportation network company shall provide an appropriate and accurate method for tracking and limiting drivers' hours to assure compliance with subsections 1 and 2. A description of the method must be submitted to the Authority pursuant to Section 11(1)(e).

Sec. 31. Drivers: vehicle capacity. (AB176, Sec. 46, AB176, Sec. 31, AB176, Sec. 39) *While on -call, a driver shall not exceed the lawful capacity of the vehicle or transport more occupants than the number of safety belts in the vehicle. Regardless of the number of safety belts or lawful capacity of the vehicle, in no case shall a driver allow more than eight occupants, including the driver, in his or her vehicle at any one time.*

Inspection and Maintenance

Sec. 32. Vehicle inspection and registration. (AB176, Sec. 27, AB176, Sec. 46)

1. Before permitting a vehicle to be placed into service by or through a transportation network company, the transportation network company shall provide notice to the Authority confirming the vehicle has met all of the requirements contained within AB 176, section 31.

2. After notice to the Authority identified in subsection 1 of this section, the vehicle shall be marked with a non-transferable decal as provided in Section 20.

Sec. 32A. "The inspection required by AB176, Sec. 31, must be performed by an automobile technician or licensed mechanic."

Method of Operation

Sec. 33. Method of operation. (AB 176, Sec. 21, AB 176, Sec. 42, AB176, Sec. 46) *It is the policy of the Authority to require that all transportation network companies and drivers operate in a manner suitable to protect the public health and safety and to ensure orderly, reliable and cost-effective transportation services. Transportation network companies are responsible for the employment and maintenance of suitable methods of operation. The willful or persistent use or tolerance of methods deemed unsuitable will constitute grounds for penalties and remedies as set forth in AB 176, Sec. 42.*

Enforcement

Sec. 34. Prohibited acts; citations; penalties. (AB176, Sec. 42, AB176, Sec. 46) *Any transportation network company or driver who violates any provision of Sections 14 - 33, inclusive, will be subject to citation by the Authority and subject to penalties and remedies as set forth in AB 176, Sec. 42.*

Practice Before Nevada Transportation Authority

Sec. 35. Scope; applicability of Nevada Rules of Civil Procedure. (NRS 233B.050, AB176, Sec. 46)

- 1. Sections 35 - 73, inclusive, govern practice before the Authority.*
- 2. To the extent that any action before the Authority is not covered by the provisions of Sections 35 - 73 inclusive, the Authority may, to the extent it deems appropriate, use the applicable rule of NRS Chapter 233B or the Nevada Rules of Civil Procedure.*

Sec. 36. Parties: Notice to parties. (NRS 233B.050, AB176, Sec. 46)

- 1. The Authority will provide notice of the pendency of any matter before the Authority to the parties to the matter.*
- 2. The notice of pendency will specify that the party may, within 10 days after the date of the notice, request a hearing on the matter.*
- 3. If no request for a hearing is received by the Authority, it will dispense with a hearing and act upon the matter unless it finds that a hearing is necessary.*

Sec. 37. Parties: Representation of parties; qualifications of attorneys. (NRS 233B.050, AB176, Sec. 46)

- 1. A party may represent himself or herself or may be represented by an attorney. Any other person who satisfies the Authority or presiding officer that he or she possesses the expertise to render valuable service to the Authority, and that he or she is otherwise competent to advise and assist in the presentation of matters before the Authority, may be allowed to appear on behalf of a party or parties.*
- 2. An attorney at law appearing as legal counsel in any proceeding must be duly admitted to practice and in good standing before the highest court of any state. If an attorney is not admitted and entitled to practice before the Supreme Court of Nevada, he or she must associate with an attorney so admitted and entitled to practice.*

Sec. 38. Formal written complaints: General requirements. (NRS 233B.050, AB176, Sec. 46)

1. A formal written complaint must:

(a) Clearly and concisely state the grounds of the complaint and the facts constituting the alleged wrongful acts or omissions;

(b) Be accompanied by copies of all supporting documents, such as invoices, bills of lading, cancelled checks and statements of account;

(c) Include the name and address of the complainant and, if he or she is being represented by an attorney or other authorized representative, the name, address and telephone number of the attorney or authorized representative;

(d) Include the name of the transportation network company or broker against whom the complaint is being made;

(e) Include the date of each act or omission that is the subject of the complaint;

(f) Include the nature of the relief sought; and

(g) Include the signature of the complainant or the attorney or authorized representative of the complainant.

2. The staff of the Authority shall maintain a record of each formal written complaint, including, without limitation:

(a) Each pertinent fact relative to the origin, nature and basis of the complaint;

(b) A description of each action that the complainant has taken or attempted to take to resolve the complaint;

(c) The response of the transportation network company or broker to the complaint, with copies of supporting documents, if any; and

(d) Any other information the staff deems to be relevant to the understanding and resolution of the complaint.

3. The staff of the Authority shall:

(a) Within 15 days after receiving a formal written complaint, send a letter of acknowledgment to the complainant.

(b) Within 20 days after receiving a formal written complaint, send a copy of it to the transportation network company or broker against which the complaint is made and require the transportation network company or broker to file a response to the complaint with the staff pursuant to Section 39.

Sec. 39. Complaints: Response. (NRS 233B.050, AB176, Sec. 46)

1. A transportation network company or broker which receives a request for a response to a complaint shall file with the staff of the Authority a written response to the request within 15 days after receiving the complaint unless, for good cause shown, the staff extends the time for responding.

2. The response must include, without limitation:

(a) A statement that the respondent has successfully resolved the complaint; or

(b) A detailed admission or denial of each material allegation of the complaint and a full statement of the facts and matters of law relied upon as a defense.

3. The response must:

(a) Be signed by the respondent or, if represented, by the attorney or other authorized representative.

(b) Include the full name, address and telephone number of the respondent and, if represented, the name, address and telephone number of the attorney or other authorized representative of the respondent.

4. If the respondent fails to file a response with the staff of the Authority within the prescribed time, the staff shall place the matter before the Authority for a determination of probable cause. An unexcused failure of the respondent to respond to the complaint within the prescribed time shall be deemed an admission by the respondent of all relevant facts stated in the complaint.

Sec. 40. Formal written complaints: Investigation and recommendation of action by staff of Authority. (NRS 233B.050, AB176, Sec. 46)

1. When the staff of the Authority receives a response to a formal written complaint, it shall examine the complaint, the response and any other information it has obtained which is necessary for the resolution of the complaint.

2. After completing an investigation of the matter set forth in the formal written complaint, the staff of the Authority shall notify all parties of the results of the investigation and shall recommend any action that the parties should take to resolve the complaint.

Sec. 41. Formal written complaints: Transmittal of unresolved complaint to Authority. (NRS 233B.050, AB176, Sec. 46)

1. If the staff of the Authority cannot resolve a formal written complaint, either because it determines that the complaint cannot be resolved or the complainant is not satisfied with the recommendation of the staff, the staff shall inform all parties that the complaint has been transmitted to the Authority for review.

2. In addition to transmitting the formal written complaint, the results of its investigation and its recommendation to the Authority, the staff of the Authority shall transmit:

- (a) The reasons for the complaint;*
- (b) The position taken by the respondent; and*
- (c) Any interim action taken by the staff.*

The staff shall send this additional information to the complainant and respondent.

Sec. 42. Formal written complaints: Dismissal. (NRS 233B.050, AB176, Sec. 46) *If the Authority determines that no probable cause exists for a formal written complaint received by the staff of the Authority or if the complaint has been settled and the Authority has received notice of the settlement, the Authority will dismiss the complaint. A copy of the entry in the minutes of the Authority showing the dismissal of the complaint by the Authority and a short statement of the reasons for the dismissal will be served upon the complainant and respondent.*

Sec. 43. Formal written complaints: Public hearing; interim relief. (NRS 233B.050, AB176, Sec. 46) *If the Authority determines that probable cause exists for a formal written complaint received by the staff of the Authority, it will:*

- 1. Set a date for a public hearing on the complaint.*
- 2. Order appropriate interim relief. If the complaint relates to bills or deposits, the Authority, without hearing or formal order and in the absence of unusual circumstances, will, upon such terms and conditions as it deems appropriate, forbid discontinuance of service or the issuance of any notice of discontinuance during the investigation of the complaint.*

Sec. 44. Hearings: Notice of hearing. (NRS 233B.050, AB176, Sec. 46)

1. *In addition to complying with the requirements of NRS 233B.121 for a notice of hearing in a contested case, the Authority will include the words “notice of hearing” in any such notice.*

2. *The Authority will serve notice of a hearing on the parties of record at least 10 days before the time set for the hearing.*

Sec. 45. Hearings: Continuances. (NRS 233B.050, AB176, Sec. 46) *The Authority or presiding officer may, for good cause, either before or during a hearing, grant a continuance of the hearing for the convenience of the parties or the Authority.*

Sec. 46. Hearings: Failure of party to appear or respond. (NRS 233B.050, AB176, Sec. 46)

1. *If an applicant, petitioner or complainant fails to appear at the time and place set for hearing, the Authority may dismiss the petition, application or complaint with or without prejudice, or may, upon good cause shown, recess the hearing to a future date to be set by the Authority to enable the applicant, petitioner or complainant to attend.*

2. *If an applicant, petitioner or complainant fails to respond to a request for data from the staff of the Authority within 10 working days after the issuance of the request, the person designated by the Authority as the Manager of Transportation shall, at the next regularly scheduled meeting of the Authority, move for dismissal of the application, petition or complaint.*

Sec. 47. Hearings: Testimony under oath. (NRS 233B.050, AB176, Sec. 46) *All testimony to be considered by the Authority in a formal hearing must be sworn testimony except for matters of which official notice is taken or matters entered by stipulation. Before testifying, each witness shall declare, under oath or affirmation, that the testimony he or she is to give at the hearing will be the truth, the whole truth and nothing but the truth.*

Sec. 48. Hearings: Authority of presiding officer. (NRS 233B.050, AB176, Sec. 46)

1. *The presiding officer shall:*

(a) *Call a hearing to order and take the appearances of the parties who are present.*

(b) *Hold appropriate conferences before or during the hearing.*

(c) *Receive and rule on the admissibility of evidence.*

(d) *Rule on the admissibility of amendments to the pleadings.*

(e) *Act upon any pending motions or petitions which do not involve a final determination of the proceeding.*

(f) *Make proposed opinions, findings and conclusions of law.*

(g) *Issue appropriate interim orders.*

(h) *Recess the hearing as required.*

(i) *Rule on all procedural matters.*

(j) *Set reasonable limits of time for the presentation of oral testimony.*

2. *At the discretion of the presiding officer, the parties may make opening statements.*

Sec. 49. Hearings: Order for appearance of witness or production of document. (NRS 233B.050, AB176, Sec. 46)

1. *A request by a party of record for an order for the appearance of a witness at any designated place of hearing or for the production of a book, paper or document must be made in the form of a written motion filed with the Authority or presiding officer.*

2. *A motion for an order to compel the production of a book, paper or document must set forth the reasons which support the issuance of the order and must identify, as clearly as possible, the book, paper or document desired.*

3. *If the motion is granted, the Authority will issue the order or the presiding officer shall issue the order on behalf of the Authority. Where appropriate, the issuance of the order may be conditioned upon an advancement by the moving party of the reasonable cost of the production of books, papers or documents.*

4. *The Authority will or the presiding officer shall, upon the Authority's or the presiding officer's own initiative or upon a written request by the party to whom the order is directed, quash or modify the order if it is determined to be unreasonable or oppressive.*

5. *The Authority or presiding officer may, upon the Authority's or the presiding officer's own initiative, issue an order requiring the attendance and testimony of witnesses and the production of a book, paper, document or other tangible thing.*

Sec. 50. Hearings: Prepared testimony. (NRS 233B.050, AB176, Sec. 46)

1. *At the discretion of the presiding officer, a party to a proceeding shall submit a copy of prepared testimony and accompanying exhibits to be presented at a hearing to the Authority and to each party of record.*

2. *An application filed for an adjustment in rates must be accompanied by the prepared testimony of the applicant at the time of filing. If the presiding officer so orders, additional copies of the prepared testimony of the applicant must be provided.*

3. *After delivery of the prepared testimony to the Authority, amendments to the prepared testimony may be made upon approval of the Authority or presiding officer.*

4. *Unless otherwise directed by the presiding officer, prepared testimony must be supported by a signed affirmation by the witness and submitted to the Authority as an exhibit. If circumstances so require, prepared testimony may be read into the record by the witness upon direct examination. The admissibility of prepared testimony will be determined pursuant to Sections 35 -73, inclusive, which govern oral testimony.*

Sec. 51. Hearings: Resolutions. (NRS 233B.050, AB176, Sec. 46)

1. *A properly authenticated resolution of a federal or state agency or division, the governing body of a city, town, county, regional or other municipal corporation or of a chamber of commerce, board of trade, labor union, corporation, commercial, mercantile, agricultural or manufacturing society or other civic organization must be received into evidence if offered by the president, secretary or other proper representative of the corporation or organization.*

2. *The resolution will be received subject to rebuttal by adversely affected parties of record as to either the authenticity of the resolution or the circumstances surrounding its procurement. Recitals of fact contained in a resolution will only be received for the limited purpose of showing the expression of the official action of the resolving body on the matters under consideration in the proceeding.*

Sec. 52. Hearings: Additional evidence. (NRS 233B.050, AB176, Sec. 46)

1. *At the hearing, the presiding officer may order the presentation of further evidence on any issue. The presiding officer may authorize the filing of specific documentary evidence as a part of the record within a fixed time after submission of the evidence. The presiding officer shall reserve exhibit numbers for exhibits which are filed late.*

2. *After the hearing and before the entry of a final decision and order, the Authority or presiding officer may issue an order requesting the submission of additional exhibits. Such an order must:*

- (a) Specifically delineate the subject matter to be addressed.*
- (b) Specify the date by which the exhibits must be submitted.*
- (c) Require service of the exhibits upon all parties of record.*

A party of record may respond to or comment upon such exhibits.

Sec. 53. Hearings: Rulings by presiding officer. (NRS 233B.050, AB176, Sec. 46)

1. *All rulings made by the presiding officer regarding the admissibility of evidence are subject to review by the Authority. Any pending petition or motion that involves a final determination of the proceeding must be referred to the Authority for determination.*

2. *In extraordinary circumstances, when a prompt decision by the Authority is necessary to promote substantial justice, the presiding officer shall refer the matter to the Authority for determination and may recess the hearing pending the determination.*

Sec. 54. Hearings: Stipulations. (NRS 233B.050, AB176, Sec. 46)

1. *With the approval of the presiding officer, the parties may stipulate as to any fact in issue, either by written stipulation introduced in evidence as an exhibit or by an oral statement made upon the record. This stipulation is binding only upon the parties so stipulating and is not binding upon the Authority.*

2. *The stipulation may be considered by the Authority as evidence at the hearing. The Authority or presiding officer may require proof of the facts stipulated to by independent evidence, notwithstanding the stipulation of the parties. A stipulation without additional proof is not binding on the Authority in the determination of the matter.*

Sec. 55. Hearings: Interim order. (NRS 233B.050, AB176, Sec. 46) *The Authority or presiding officer may, in the course of a proceeding and before entering a decision or a recommended decision, issue an appropriate written interim order. An interim order is not subject to exceptions or petitions for rehearing, reconsideration or reargument, but any party of record aggrieved by the interim order may file a written motion to set aside, stay or modify the order.*

Sec. 56. Hearings: Official notice. (NRS 233B.050, AB176, Sec. 46) *The Authority or presiding officer may take official notice of the following matters:*

1. *Rules, regulations, official reports, decisions and orders of the Authority and any other agency of the State.*

2. *Contents of decisions, orders and permits issued by the Authority.*

3. *Matters of common knowledge and technical or scientific facts of established character.*

4. *Official documents, if pertinent and properly introduced into the record of formal proceedings by reference. A proper and definite reference to a document must be made by the*

party offering the document, and the document must be generally circulated to each party of record.

Sec. 57. Hearings: Decision by Authority. (NRS 233B.050, AB176, Sec. 46) *Unless otherwise specifically ordered, a matter stands submitted for decision by the Authority at the close of the hearing.*

Sec. 58. Hearings: Reopening proceedings to receive additional evidence. (NRS 233B.050, AB176, Sec. 46) *At any time after the conclusion of a hearing and before the issuance of a final order, the Authority or presiding officer, on the Authority's or presiding officer's own motion, may reopen the proceedings for the taking of additional evidence.*

Sec. 59. Hearings: Proposed findings of fact and conclusions of law. (NRS 233B.050, AB176, Sec. 46)

1. The presiding officer may require any party of record to file proposed findings of fact and conclusions of law at the close of the proceeding. The presiding officer will fix the period within which these proposed findings and conclusions must be filed. No decision, report or recommended order may be made until after the expiration of this period.

2. Each proposed finding of fact and conclusion of law must be clearly and concisely stated and numbered. Each proposed finding of fact must specifically show, by appropriate references to the transcript, the testimony which supports the statement.

3. An original and such copies of proposed findings of fact and conclusions of law, accompanied by a certificate of service, as requested by the presiding officer must be filed by each party with the Authority, and one copy must be served upon each party of record. A presiding officer may not request more than 10 copies of proposed findings of fact and conclusions of law.

4. Any party of record may petition the Authority for an extension of time in which to file proposed findings of fact and conclusions of law.

Sec. 60. Hearings: Date of issuance and effective date of order. (NRS 233B.050, AB176, Sec. 46)

1. The date of the issuance of an order is the day on which the Deputy Commissioner signs and verifies the order and affixes the seal of the Authority on the order. The Deputy Commissioner shall mail or deliver copies of the order to the parties of record not later than 1 day following the date of issuance. The date of issuance of an order may or may not be the day on which the Authority makes the decision. The Deputy Commissioner shall clearly indicate on each order the date of its issuance.

2. Unless otherwise specifically provided in the order, an order of the Authority is effective as of the date of its issuance.

Sec. 61. Declaratory orders and advisory opinions: Petition; hearings. (NRS 233B.050, AB176, Sec. 46)

1. Any interested person may petition the Authority for a declaratory order or an advisory opinion as to the applicability of any statutory provision or any regulation or decision of the Authority. The Authority will retain discretion as to if and how such a petition will be addressed.

2. *Hearings will be held by the Authority, if needed, to obtain information necessary or useful in formulating a declaratory order or advisory opinion.*

Sec. 62. Administrative remedies: Definitions. *(NRS 233B.050, AB176, Sec. 46, AB176, Sec. 42) As used in Sections 63 – 73, inclusive, unless the context otherwise requires, the words and terms defined in Sections 63 – 65 have the meanings ascribed to them in those sections.*

Sec. 63. Administrative remedies: “Administrative proceeding” defined. *(NRS 233B.050, AB176, Sec. 46, AB176, Sec. 42) “Administrative proceeding” means a proceeding to impose an administrative fine or prohibit a person from operating as a driver pursuant to section 42 of AB176.*

Sec. 64. Administrative remedies: “Hearing officer” defined. *(NRS 233B.050, AB176, Sec. 46, AB176, Sec. 42) “Hearing officer” means a person designated by the Chairman to conduct an administrative proceeding.*

Sec. 65. Administrative remedies: “Respondent” defined. *(NRS 233B.050, AB176, Sec. 46, AB176, Sec. 42) “Respondent” means a person against whom an administrative proceeding is initiated.*

Sec. 66. Administrative remedies: Initiation and termination of administrative proceeding by staff of Authority; conduct of and applicable regulations for administrative proceeding. *(NRS 233B.050, AB176, Sec. 46, AB176, Sec. 42)*

1. *An administrative proceeding must be initiated by the staff of the Authority as provided in Section 67. The staff may terminate an administrative proceeding at any time before a hearing without prejudice to the initiation of another administrative proceeding based upon the same set of facts.*

2. *An administrative proceeding must be conducted pursuant to the provisions of chapter 233B of NRS and those provisions of AB 176 which do not conflict with the provisions set forth in chapter 233B of NRS regarding notice to parties and the opportunity of parties to be heard.*

3. *The provisions of Sections 35 – 61, inclusive, apply to an administrative proceeding, as if the hearing officer were the Authority or presiding officer, to the extent that those provisions do not conflict with the provisions of Sections 62 – 73, inclusive.*

Sec. 67. Administrative remedies: Contents, service and filing of complaint to initiate administrative proceeding; answer to complaint. *(NRS 233B.050, AB176, Sec. 46, AB176, Sec. 42)*

1. *The staff of the Authority may initiate an administrative proceeding by:*
 - (a) *Serving a copy of a complaint upon the respondent by personal delivery or by mailing by certified mail, return receipt requested, to the last known address of the business or residence of the respondent; and*
 - (b) *Filing the complaint with the Authority.*
2. *The complaint must be signed by a member of the staff of the Authority and contain:*
 - (a) *The name of the respondent;*

(b) A concise statement of the facts upon which the imposition of a fine is allegedly grounded; and

(c) Any other matter required by law.

3. The respondent may file with the Authority an answer to the complaint not later than 15 days after it is served.

Sec. 68. Administrative remedies: Settlement of administrative proceeding. (NRS 233B.050, AB176, Sec. 46, AB176, Sec. 42)

1. The staff of the Authority may enter into an agreement with a respondent for the settlement of an administrative proceeding. The agreement must be signed by the staff and the respondent, and state that the respondent consents to the imposition of a fine in a specific amount.

2. Upon entering into such an agreement:

(a) The staff of the Authority shall submit the agreement to the Authority; and

(b) The respondent shall deposit with the Authority a cashier's check or money order, payable to the Nevada Transportation Authority, for the amount of the agreed fine.

3. The agreement is not effective unless approved by the Authority. If the Authority approves the agreement, it will enter an appropriate final order. If the Authority does not approve the agreement, the administrative proceeding must be set for a hearing.

4. Upon termination of the administrative proceeding, the Authority will return to the respondent the amount deposited pursuant to subsection 2 which exceeds the amount of any fine imposed.

Sec. 69. Administrative remedies: Powers and duties of hearing officer. (NRS 233B.050, AB176, Sec. 46, AB176, Sec. 42)

1. A hearing officer shall:

(a) Subscribe to the constitutional oath of office before exercising any of the powers or performing any of the duties of his or her office.

(b) Conduct a fair and impartial hearing in accordance with the law.

(c) Conduct the entire hearing on the record and require each party or the party's counsel to identify himself or herself before presenting evidence.

(d) Establish the order of presentation of the evidence by each party.

(e) Ensure that the hearing proceeds with reasonable diligence and the least delay practicable.

(f) Prepare a proposed decision for review by the Authority.

(g) Deliver the record of the hearing and the proposed decision to the Authority.

2. If not otherwise prohibited by law and if substantial rights of the parties will not be prejudiced, a hearing officer may allow amendment of the complaint and answer before conducting a hearing.

Sec. 70. Administrative remedies: Appeal of procedural ruling by hearing officer. (NRS 233B.050, AB176, Sec. 46, AB176, Sec. 42)

1. Any party to an administrative proceeding conducted by a hearing officer may appeal a ruling of the hearing officer on any procedural matter to the Authority by filing a request for further consideration with the hearing officer within 15 days after the ruling is made, or

within the period prescribed by the hearing officer. The request must include, without limitation, grounds for review of the ruling by the Authority.

2. The hearing officer shall transmit:

(a) The request for further consideration and any response to the request;

(b) His or her ruling on the procedural matter; and

(c) A memorandum which explains those parts of the hearing officer's ruling which are the subject of the appeal,

□ to the Authority not later than the time the hearing officer delivers the proposed decision pursuant to Section 69.

3. Except as otherwise provided in subsection 4, the Authority will enter a decision on the appeal at the same time it rules upon the proposed decision of the hearing officer received pursuant to Section 69.

4. If the hearing officer finds that a ruling on the appeal is necessary to prevent detriment to the public interest or irreparable harm to any person, the Authority may enter a decision on the appeal before it rules on the proposed decision of the hearing officer received pursuant to Section 69.

Sec. 71. Administrative remedies: Action by Authority. (NRS 233B.050, AB176, Sec. 46, AB176, Sec. 42)

1. The Authority will review the decision of a hearing officer and enter a final order affirming, modifying or setting aside the decision.

2. If a respondent fails to appear at the time and place set for an administrative proceeding, the Authority may impose a fine or prohibit the respondent from operating as a driver for the violations alleged in the complaint.

3. In determining whether to prohibit a respondent from operating as a driver or the amount of a fine to be imposed pursuant to an administrative proceeding, the Authority may consider:

(a) The seriousness of the violations alleged in the complaint which were demonstrated to have been committed by the respondent;

(b) Any hazard to the health or safety of the public resulting from those violations;

(c) Any economic benefit received by the respondent as a result of those violations;

(d) Any mitigation or aggravation by the respondent of the effects of those violations;

(e) The extent to which the respondent demonstrates his or her good faith;

(f) Any previous history of violations by the respondent;

(g) The remedy necessary to deter future violations; and

(h) Any other appropriate matter.

Sec. 72. Administrative remedies: Payment of fine. (NRS 233B.050, AB176, Sec. 46, AB176, Sec. 42) *A fine imposed pursuant to an administrative proceeding is due and payable within 20 days after the final order of the Authority imposing the fine.*

Sec. 73. Administrative remedies: Remedy not exclusive. (NRS 233B.050, AB176, Sec. 46, AB176, Sec. 42) *The provisions of Section 62 – 73, inclusive, do not preclude the commencement or pursuit of any additional remedies for the commission of the acts upon which an administrative proceeding is based.*