

LCB FILE NO. T026-99

ADOPTED TEMPORARY REGULATION OF THE TRANSPORTATION SERVICE AUTHORITY AND THE DEPARTMENT OF MOTOR VEHICLES AND PUBLIC SAFETY

(Effective March 17, 1999)

EXPLANATION—Matter in italics is new; matter in brackets [] is material to omitted.

AUTHORITY: NRS 706.171 and 706.173

Section 1. NAC 706.247 is hereby amended to read as follows:

706.247 1. The department and the [commission] *Authority* hereby adopt by reference the regulations contained in 49 C.F.R. Parts 382, 383, 387, 390 to 393, inclusive, [section 394.15, Parts 395 to 397, inclusive,] 395, 396, and appendices B, D, E and G [,] of *subchapter B*, as those regulations [exist on November 1, 1991,] *existed on September 1, 1996*, with the following exceptions:

(a) References to the Department of Transportation, the Federal Highway Administration and the Office of Motor Carrier Safety are amended to refer to the department and the [commission] *Authority*.

(b) References to the Federal Highway Administrator and to the Director are amended to refer to the director of the department and the chairman of the [commission] *Authority*.

(c) Section 391.11(b)(l) applies only to drivers [operating] *of commercial motor vehicles who:*

(1) *Operate* in interstate transportation [and drivers of vehicles transporting passengers for hire or transportation of] ;

(2) *Transport passengers intrastate; or*

(3) *Transport* hazardous material of a type or quantity that requires the vehicle to be marked or placarded in accordance with [Section 177.823 of Title 49.] *49 C.F.R. § 177.823.*

(d) References to special agents in appendix B of subchapter B are amended to include personnel of the department and the [commission.] *Authority*.

(e) The definition of “motor carrier” in 49 C.F.R. § 390.5 is amended to read:

“Motor carrier” includes interstate and intrastate common, contract and private carriers of property and passengers, including their agents, officers and representatives.

(f) The definition of “commercial motor vehicle” in 49 C.F.R. § 390.5 is amended to read:

“Commercial motor vehicle” means any self-propelled or towed vehicle used on public highways in:

1. Interstate commerce to transport passengers or property if the vehicle:
 - (a) Is designed to transport more than 15 passengers, including the driver;
 - (b) Is used in the transportation of hazardous materials in a quantity requiring placarding under regulations issued by the Secretary pursuant to the Hazardous Materials Transportation Act (49 U.S.C. [App. §§ 1801 to 1813, inclusive];] § 5101 *et seq.*); or
 - (c) Has a gross vehicle weight rating or gross combination weight rating of 10,001 or more pounds.
2. Intrastate commerce to transport passengers or property if the vehicle:
 - (a) Is one described in paragraph (a) or (b) of subsection 1;
 - (b) Has a gross vehicle weight rating or gross combination weight rating of 26,001 or more pounds; or
 - (c) Is owned or operated by a motor carrier subject to the jurisdiction of the [commission] Authority, except that any vehicle so owned or operated is subject only to the provisions of 49 C.F.R. §§ 391.51, 392.2, 392.4, 392.5, 392.9 and 396.3(b)(2) and 49 C.F.R. Parts 390, 393 and 397 if the vehicle is not one described in paragraph (a) or (b) of this subsection.

2. To enforce these regulations, enforcement officers of the department and the [commission] Authority may, during regular business hours, enter the property of a carrier to inspect its records, facilities and vehicles, including space for cargo.

3. The volume containing 49 C.F.R. Parts 325 to 399, inclusive, is available from the Superintendent of Documents, [U.S. Government Printing Office, Washington, D.C. 20402,] P.O. Box 371954, Pittsburgh, Pennsylvania, 15250-7954, at the price of [\$21.] \$39.

Sec. 2. NAC 706.248 is hereby amended to read as follows:

706.248 1. The [commission] Authority hereby adopts by reference the regulations contained in 49 C.F.R. Parts 27, 37 and 38, as those regulations existed on September [6, 1991.] 1, 1996.

2. A common or contract motor carrier of passengers shall comply with the regulations set forth in 49 C.F.R. Parts 27, 37 and 38 if any provision of the regulations applies to the operation of the motor carrier in this state.

3. The volume containing 49 C.F.R. Parts 27, 37 and 38 is available from the Superintendent of Documents, [United States Government Printing Office, Washington, D.C. 20402,] P.O. Box 371954, Pittsburgh, Pennsylvania, 15250-7954, at the price of [\$20.] \$32.

Sec. 3. NAC 706.377 is hereby amended to read as follows:

706.377 1. The department and the [commission] Authority hereby adopt by reference the regulations contained in 49 C.F.R. Parts 107, 171 [to 173, inclusive,] 172, 173, 177, 178 and 180, as those regulations [exist on November 1, 1991.] existed on September 1, 1996.l

2. To enforce these regulations, enforcement officers and inspectors of the department and [commission] Authority may, during regular business hours, enter the property of a shipper or carrier to inspect his records, facilities and vehicles, including space for a cargo.

3. The volume containing Parts [107 to 177,] 100 to 185, inclusive, and the volume containing Parts [178] 186 to 199, inclusive, are available from the Superintendent of Documents, [U.S. Government Printing Office, Washington, D.C. 20402,] P.O. Box 371954, Pittsburgh, Pennsylvania, 15250-7954, at the price of [\$27 and \$22,] \$50 and \$14, respectively.

Informational Statement
3/15/99

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

The Transportation Services Authority (T.S.A.) and Nevada Highway Patrol noticed their intent to adopt the temporary regulations through one (1) public workshop held at 9:00 a.m. on February 22, 1999, and one (1) Public Hearing held at 9:30 a.m. on February 22, 1999, at the Nevada Highway Patrol Headquarters Office in Carson City, Nevada, and the Transportation Services Authority, 555 E. Washington Avenue, Suite 4604, Las Vegas, NV 89101.

Notice of the public comment hearings were sent via U.S. or inter-departmental mail, to the Washoe County, Clark County and Carson City court houses, Las Vegas and Carson city T.S.A. offices, and five (5) Visually Impaired organizations in Nevada.

Notice was posted at DMV&P/S headquarters and field offices, and the main public library in counties in which DMV and T.S.A. do not maintain an office, and the Nevada State Library. The notice was also posted in a Las Vegas newspaper.

Persons who wished to comment on the proposed action were invited to appear at the scheduled public hearings or were invited to address their comments, data, views or arguments, in written form, to Nevada Highway Patrol Headquarters, 555 Wright Way, Carson City, Nevada 89711.

2. The number of persons who:

- (a) Attended each hearing:

February 22, 1999 - zero (0) guests; fourteen (14) personnel

- (b) Testified at each hearing:

February 22, 1999 - zero (0) personnel

- (c) Submitted to the agency written comments: zero (0) comments received

3. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary;

Interested persons were given an opportunity to comment on the proposed regulations at the workshop and the public comment hearing. There were no

comments received by any member of the public in regards to the regulations adopted.

4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

There were no comments received by any member of the public in regards to the regulations adopted.

5. The estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be state separately, and in each case must include:

- (a) Both adverse and beneficial effects; and
- (b) Both immediate and long-term effects.

The proposed revisions to NAC 706 are not expected to have an adverse economic effect, either immediate or long-term, upon the regulated community or upon the public.

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

At this time, the Nevada Highway Patrol and Transportation Services Authority do not envision any increased costs associated with enforcement of the proposed regulations, which primarily updates references to federal provisions.

7. A description of any regulation 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 a federal regulation, the name of the regulating federal agency.

The proposed regulations do not overlap or duplicate any other state or local government regulations. The proposed regulations adopt by reference certain federal regulations related to commercial vehicle operation, enforcement, and the transportation of hazardous materials. The federal agency regulating this area is the Federal Highway Administration.

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

The proposed regulations are not more stringent than federal regulations.

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.

The proposed regulations do not establish a new fee or increase an existing fee.