

LCB File No. R127-07

**PROPOSED REGULATION OF THE
NEVADA TRANSPORTATION AUTHORITY OF
THE DEPARTMENT OF BUSINESS AND INDUSTRY**

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

AUTHORITY: §§1-2, NRS 706.171; §3 NRS 706.167, NRS 706.171, NRS 706.173; §§4-10, NRS 706.171.

REGULATIONS relating to motor carriers; removing the distinctions “livery” and “traditional” as vehicle types used to provide charter limousine service; reducing the amount of time driver vehicle inspection report records are required to be maintained; requiring certain employees of the Nevada Transportation Authority to be trained in federal safety regulations adopted under NAC 706.247;

Section 1. NAC 706.036 is hereby amended to read as follows:

NAC 706.036 1. “Charter service by limousine” means the exclusive use of a ~~traditional limousine or livery~~ limousine for the prearranged transportation of passengers and their baggage under a charter order at an hourly rate for a minimum of 1 hour.

2. The term does not include:

(a) Scenic tours;

(b) Special services;

(c) Airport transfer services;

(d) Service which will be resold by the broker for scenic tours or airport transfer services; or

(e) The carriage of property or cargo not belonging to a group of passengers being transported.

Section 2. NAC 706.080 is hereby amended to read as follows:

NAC 706.080 “~~Livery~~ ~~H~~Limousine” means a motor vehicle engaged in the general transportation of persons for compensation that~~;~~

~~1. Was a light truck, as that term is defined in 49 C.F.R. § 523.5, at the time of its manufacture; or~~

~~2. W]was originally manufactured as having a capacity of [9 or more persons but] less than 16 persons, including the driver.~~

Section 3. NAC 706.203 is hereby amended to read as follows:

NAC 706.203 1. An authorized carrier operating motor vehicles within this State shall maintain a centralized accounting system and the records required by the Transportation Services Authority in a designated headquarters.

2. *Except as otherwise provided in subsection 3, [A]all records required to be maintained by the Transportation Services Authority must be maintained by the authorized carrier for at least 3 years [and are subject to inspection or audit by the Transportation Services Authority or its designated agent at any time during regular business hours].*

3. *Driver vehicle inspection report records required to be maintained pursuant to 49 C.F.R. Part 396 §§11 and 13 must be maintained by the authorized carrier for at least 3 months from the date the written report was prepared.*

4. *All records required to be maintained by the Nevada Transportation Authority are subject to inspection or audit by the Nevada Transportation Authority or its designated agent at any time during regular business hours.*

Section 4. NAC 706.210 is hereby amended to read as follows:

NAC 706.210 1. A common motor carrier authorized to operate a ~~[traditional limousine or livery]~~ limousine shall not lease any vehicle that it uses as a ~~[traditional limousine or livery]~~ limousine without the prior approval of the Chairman or his designee.

2. A carrier must submit a request for the approval of such a lease to the Transportation Services Authority at least 10 working days before the execution of the lease. The Chairman or his designee shall approve or disapprove the lease within 10 working days after receiving the request for the approval of the lease. If the Chairman or his designee does not approve or disapprove the lease within 10 working days after receiving the request for approval of the lease, the lease shall be deemed to be approved.

3. The Chairman or his designee shall approve such a lease if:

(a) The vehicle will be leased for not more than 14 days;

(b) The vehicle will be used only in an operation authorized by the certificate of the carrier;

(c) Including the vehicles to be leased by the carrier under the lease:

(1) Not more than one-half of the vehicles of the carrier will be leased; and

(2) The total number of vehicles operated by the carrier does not exceed the number of vehicles the carrier is authorized to operate pursuant to its operating authority;

(d) The driver of the vehicle will be an employee of the carrier who has no ownership interest in the vehicle; and

(e) The carrier demonstrates to the satisfaction of the Chairman or his designee that the carrier temporarily needs to increase the size of its fleet, including, without limitation, facts which indicate that the carrier expects to experience:

(1) An increase in customer demand; or

(2) A decrease in the size of its permanent fleet.

4. *The Nevada Transportation Authority may approve the lease of equipment that does not comply with subsection 3 if:*

(a) The authorized carrier files a petition for a waiver of the requirement with which the lease does not comply; and

(b) The Nevada Transportation Authority finds that approval of the lease would be in the public interest.

The Nevada Transportation Authority will issue a public notice of the receipt of a petition for a waiver received pursuant to this subsection.

~~[4]~~ 5. If a lease is approved pursuant to this section:

(a) A copy of the lease must be submitted to the Transportation Services Authority not later than the date on which the lease becomes effective; and

(b) A copy of the lease and a copy of the approval of the lease must be:

(1) Carried in the vehicle during the period of the lease; and

(2) Maintained by the carrier for a minimum of 3 years.

~~[5]~~ 6. A carrier may not lease vehicles for more than 45 days in any calendar year.

~~[6]~~ 7. The approval of a lease pursuant to this section does not relieve the carrier of the obligation to comply with all other laws that otherwise apply with respect to the operation of the ~~[traditional limousine or livery]~~ limousine.

Section 5. NAC 706.228 is hereby amended to read as follows:

NAC 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 Transportation Services 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. With the prior approval of the Transportation Services Authority with regard to dates and locations, a driver may hold up a sign that contains the company name, the “CPCN” number, the approved rates and the words “For Hire.” Such a sign must be not more than 18 by 24 inches in size.

4. A certificate holder or his employee shall not stand or park a ~~traditional limousine or livery~~ limousine 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 ~~traditional limousine or livery~~ limousine 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 to solicit transportation services 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, “solicit” includes, without limitation, inducing or attempting to induce persons by communication or other action to be transported. The term includes, without limitation:

Section 6. NAC 706.229 is hereby amended to read as follows:

NAC 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; and

(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.

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.

Section 7. NAC 706.247 is hereby amended to read as follows:

706.247 1. The Department, the Department of Public Safety and the Transportation Services Authority hereby adopt by reference the regulations contained in 49 C.F.R. Parts 40, 382, 383, 385, 387, 390 to 393, inclusive, 395, 396 and 397, and Appendices B and G of 49 C.F.R. Chapter III, Subchapter B, as those regulations existed on October 1, 2005, with the following exceptions:

(a) References to the Department of Transportation and the Federal Motor Carrier Safety Administration are amended to refer to the Department and the Transportation Services Authority.

(b) References to the Administrator of the Federal Motor Carrier Safety Administration and to the Director are amended to refer to the Director of the Department and the Chairman.

(c) Section 391.11(b)(1) applies only to drivers of commercial motor vehicles who:

(1) Operate in interstate transportation;

(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 49 C.F.R. §§ 172.300 and 172.500.

(d) References to special agents in Appendix B of 49 C.F.R. Chapter III, Subchapter B are amended to include personnel of the Department and the Transportation Services Authority.

(e) The definition of “motor carrier” in 49 C.F.R. §§ 390.5 and 397.65 is amended to read:

“Motor carrier” includes, without limitation, interstate and intrastate common, contract and private carriers of property and passengers, including, without limitation, their agents, officers and representatives.

(f) The definition of “commercial motor vehicle” in 49 C.F.R. §§ 382.107, 385.3 and 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 eight passengers, including, without limitation, the driver;

(b) Is used in the transportation of hazardous materials in a quantity requiring placarding under regulations issued by the Secretary pursuant to 49 U.S.C. §§ 103, 104 and 106; or

(c) Has a gross vehicle weight rating, gross combination weight rating or gross vehicle weight of 10,001 or more pounds, whichever is greater.

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, gross combination weight rating or gross vehicle weight of 26,001 or more pounds, whichever is greater; or

(c) Is owned or operated by a motor carrier subject to the jurisdiction of the Transportation Services Authority, except that any vehicle so owned or operated is subject only to the provisions of 49 C.F.R. §§ 392.2, 392.4, 392.5 and 392.9 and 49 C.F.R. Parts 40, 382, 383, 385, 390, 391, 393, 395, 396 and 397 if the vehicle is not one described in paragraph (a) or (b) or being used pursuant to the exemption from hours-of-service limitations set forth in NRS 706.687.

2. To enforce these regulations, enforcement officers of the Department and the Transportation Services Authority may, during regular business hours, enter the property of a carrier to inspect its records, facilities and vehicles, including, without limitation, space for cargo and warehouses.

3. Compliance Enforcement Officers employed by the Nevada Transportation Authority pursuant to NRS 706.176 shall complete training in federal regulations adopted under subsection 1 which relate to common, contract and private motor carriers of passengers and property, including, without limitation, training in commercial vehicle safety inspections provided by the Nevada Highway Patrol.

~~3~~ 4. The volume containing 49 C.F.R. Parts 325 to 399, inclusive, is available from the Superintendent of Documents, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954, at the price of \$64. The volume containing 49 C.F.R. Part 40 is available from the Superintendent of

Documents, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954, at the price of \$56. The volumes are also available at the Internet address <http://www.gpoaccess.gov/cfr/index.html>.

Section 8. NAC 706.379 is hereby amended to read as follows:

NAC 706.379 1. A common or contract motor carrier authorized to operate a taxicab, ~~traditional limousine, livery~~ limousine, bus or other vehicle shall regularly inspect each vehicle operated and keep a record of the inspection as required pursuant to subsection 5 of NAC 706.381.

2. Except as otherwise provided in this section, each vehicle must be maintained in conformance with the following standards:

(a) The system that comprises the front suspension must be in good repair and proper working order.

(b) The engine and drivetrain of the vehicle, including other parts necessary to connect the engine and drivetrain to each other or to other parts of the vehicle, must be in good repair and proper working order so that, during normal operation, the engine does not die, miss, backfire or show noticeable loss of power.

(c) The engine, drivetrain and accessories of the vehicle must not emit loud noises that disturb the passengers of or distract the driver of the vehicle.

(d) The vehicle must be equipped with an air filter or adequate flame arrester covering the air intake of the fuel delivery system.

(e) The vehicle must not pull to the left or the right or tend to drift under normal driving conditions.

(f) The engine, drivetrain, radiator and other accessories must not allow a noticeable amount of fluid to leak.

(g) The engine must not emit an excessive amount of smoke from the crankcase or system for exhaust.

(h) Each window of the vehicle must be operable, free from obstruction and afford the driver a view that is unimpaired.

(i) The linings of the brakes must be of sufficient thickness to prevent the metal portion of the brake shoe or pad from coming into contact with the brake drum or disc. Under normal braking conditions, the vehicle must not pull to the left or to the right and the wheels of the vehicle must not lock.

(j) The vehicle must be equipped with systems for heating and air-conditioning that provide to passengers a reasonable level of comfort and which conform to reasonable standards of efficiency.

(k) The vehicle must be equipped with seat belts which must be maintained in a clean and operable condition at all times.

3. In addition to the standards set forth in subsection 2, each taxicab that is placed into service after March 1, 1999, must be equipped with:

(a) A mirror located on the outside of the front door on the passenger's side of the taxicab.

(b) A bar, rod or other support to maintain the lid of the trunk of the taxicab in an open position. One end of the bar, rod or support must be affixed permanently to the taxicab.

(c) Straps to tie down the lid of the trunk.

(d) Windows that are not tinted more darkly than recommended or specified by the manufacturer of the taxicab.

4. In addition to the standards set forth in subsections 2 and 3, each taxicab~~[, traditional limousine]~~ and ~~[livery]~~ limousine that is placed into service after March 1, 1999, must be equipped with:

(a) A lock on each door of the taxicab that may be operated remotely by the driver of the taxicab with controls located on the driver's door or in another location within easy reach of the driver.

(b) A lever, switch or other device which opens the trunk of the taxicab from inside the trunk.

5. In addition to the standards set forth in subsections 2, 3 and 4, each ~~[traditional limousine and livery]~~ limousine that is placed into service after March 1, 1999:

(a) Must be certified by its manufacturer as suitable for use as a ~~[traditional limousine or livery]~~ limousine~~[, as appropriate]~~, if the manufacturer makes such certifications; and

(b) Must have been modified for use as a ~~[traditional limousine or livery]~~ limousine, as appropriate, by a builder of coaches or other modifier of motor vehicles who is certified as such by the manufacturer of the vehicle, if the manufacturer makes such certifications.

6. A restored theme or antique vehicle is not required to meet the standards set forth in paragraph (j) of subsection 2 or subsection 4.

7. If an employee of the Transportation Services Authority does not withdraw a vehicle from service pursuant to NAC 706.381, but the carrier knows or should have reason to know the vehicle does not conform to the standards prescribed in subsections 2 to 5, inclusive, the carrier shall withdraw the vehicle from service at the end of the operating day and the vehicle may not be placed back into service until any defective condition has been corrected and the vehicle is in compliance with subsections 2 to 5, inclusive. If the vehicle does not conform to the standards prescribed in subsections 2 to 5, inclusive, and the carrier knows or should have reason to know

the vehicle poses an immediate and substantial threat to the safety of the public or passengers of the vehicle, the carrier shall immediately withdraw the vehicle from service until any defective condition has been corrected and the vehicle is in compliance with subsections 2 to 5, inclusive, and no longer poses an immediate and substantial threat to the safety of the public or passengers. Failure of the carrier to take these actions may result in the suspension or revocation of the carrier's permit or certificate. Notice of repair of the vehicle must be made pursuant to NAC 706.381 before the vehicle may be operated.

8. As used in this section, "drivetrain" has the meaning ascribed to it in NRS 482.3666.

Section 9. NAC 706.380 is hereby amended to read as follows:

NAC 706.380 A common or contract motor carrier authorized to operate a taxicab, ~~traditional limousine, livery~~ limousine or bus shall withdraw a vehicle from service at the end of the day and not place it back into service unless the vehicle:

1. Is structurally sound and operates with a minimum of noise and vibration;
2. Does not have any cracked, broken or badly dented fenders; and
3. Is painted so as to provide reasonable protection against structural deterioration.

Section 10. NAC 706.381 is hereby amended to read as follows:

NAC 706.381 1. A taxicab, ~~traditional limousine, livery~~ limousine, bus or any other vehicle operated by a common or contract motor carrier may be inspected at any time during regular business hours by an authorized employee of the Transportation Services Authority. Before placing a new vehicle into service, the carrier must notify the Transportation Services Authority in writing and make the vehicle available for inspection by an authorized employee of the Transportation Services Authority. Before placing a newly acquired but previously owned vehicle into service, the carrier must notify the Transportation Services Authority in writing and

the vehicle must pass an inspection by an authorized employee of the Transportation Services Authority.

2. If the authorized employee of the Transportation Services Authority finds that a vehicle is in a condition which violates any provision of subsections 2 to 5, inclusive, of NAC 706.379 and does not pose a threat to the safety of the public or passengers of the vehicle, he shall remove the vehicle from service effective at the end of the operating day and place a sticker on the windshield indicating that the vehicle is so removed from service.

3. If the authorized employee of the Transportation Services Authority finds that a vehicle is in a condition which violates any provision of subsections 2 to 5, inclusive, of NAC 706.379 and poses an immediate and substantial threat to the safety of the public or passengers of the vehicle, he shall immediately remove the vehicle from service by placing a sticker on the windshield indicating the vehicle is immediately removed from service. If passengers are aboard, the passengers must be safely unloaded and provided safe shelter until the driver of the vehicle obtains a substitute vehicle to transport the passengers to the original destination. A substitute vehicle must be provided immediately by the carrier. The driver must also contact the carrier so that the vehicle may be towed to the carrier's facility or another facility for repair. If passengers are not aboard the vehicle, the driver shall remove the vehicle from the road to a safe location and contact the carrier so that the vehicle may be towed to the carrier's facility or another facility for repair.

4. A vehicle removed from service pursuant to subsections 2 and 3 must remain out of service until the defect is repaired and a notice of repair is filed by the carrier with the Transportation Services Authority on a form provided by a representative of the Transportation Services Authority.

5. An authorized carrier shall maintain current records for each driver and of the inspection, maintenance and repairs of each vehicle. Each driver's record must contain all citations, all the information required to be maintained pursuant to 49 C.F.R. § 391.51 and 49 C.F.R. Part 382, and other matters relevant to his performance and his record of training. These records must be maintained and made available for inspection by the Transportation Services Authority pursuant to NAC 706.203.

TEXT OF REPEALED SECTIONS

NAC 706.124 “Traditional limousine” defined. (NRS 706.171) “Traditional limousine” means a motor vehicle that is engaged in the general transportation of persons for compensation and not operated on a regular schedule or over regular routes and:

1. Was a passenger automobile, as that term is defined in 49 C.F.R. § 523.4, at the time of its manufacture and was later modified to increase its length; or
2. Has a capacity of less than nine persons, including the driver.