

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

LCB File No. R127-07

March 21, 2008

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

AUTHORITY: §§1-4, 6, 7 and 9, NRS 706.171; §5, NRS 706.167, 706.171, 706.172 and 706.173; §8, NRS 706.171 and 706.178; §10, NRS 706.171, 706.197 and 706.2883.

A REGULATION relating to motor carriers; requiring common motor carriers of passengers and their employees to remain with vehicles which are parked in passenger curb loading zones; reducing the amount of time that driver vehicle inspection reports and related records are required to be maintained; authorizing the Chairman of the Nevada Transportation Authority or his designee to grant a waiver for the lease of certain vehicles which do not meet certain requirements for leasing; requiring certain drivers to hold certain signs while in a passenger curb loading zone; requiring certain employees of the Nevada Transportation Authority to be trained in certain federal safety regulations; requiring parties of record in proceedings before the Taxicab Authority to file a statement of intent to participate in appeals; and providing other matters properly relating thereto.

Section 1. Chapter 706 of NAC is hereby amended by adding thereto a new section to read as follows:

1. While on duty, a common motor carrier of passengers or his employee shall not leave his vehicle unattended in any passenger curb loading zone.

2. As used in this section, the term “passenger curb loading zone” has the meaning ascribed to it in NRS 484.109.

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

706.080 “Livery limousine” means a motor vehicle engaged in the general transportation of persons for compensation that ~~is~~:

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

Sec. 3. NAC 706.124 is hereby amended to read as follows:

706.124 “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] that was originally manufactured as having~~ a capacity of less than nine persons, including the driver.

Sec. 4. NAC 706.140 is hereby amended to read as follows:

706.140 Every common or contract motor carrier shall comply with NAC 706.147 to 706.269, inclusive, *and section 1 of this regulation*, and shall instruct his employees and agents concerned with the transportation of persons or property by motor vehicle with respect thereto.

Sec. 5. NAC 706.203 is hereby amended to read as follows:

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

2. ~~{A#}~~ *Except as otherwise provided in subsection 3, all records required by the Nevada Transportation Authority to be maintained by ~~{the Transportation Services Authority}~~ an authorized carrier 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 reports and records relating to such reports which are 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 after the date the written report was prepared.*

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

Sec. 6. NAC 706.210 is hereby amended to read as follows:

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 *Nevada* 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 Chairman or his designee may approve the lease of a vehicle that does not comply with paragraph (a) of subsection 3 or subparagraph (1) of paragraph (c) of 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 Chairman or his designee finds that approval of the lease would be in the public interest.

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

5. If a lease is approved pursuant to this section:

(a) A copy of the lease must be submitted to the *Nevada* 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.

~~5.1~~ 6. A carrier may not lease vehicles for more than 45 days in any calendar year.

~~6.1~~ 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.

Sec. 7. 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 ~~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]~~ *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 a sign that ~~[contains]~~ :

(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 ~~[and the words “For Hire.” Such a sign must be not more than 18 by 24 inches in size.]~~ *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. ~~[A]~~ *While on duty, a certificate holder who is a fully regulated carrier* or his employee shall not stand *a vehicle* or park a ~~[traditional limousine or livery limousine]~~ *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 ~~[traditional limousine or livery limousine]~~ *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 ~~[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"]~~:

(a) *"Passenger curb loading zone" has the meaning ascribed to it in NRS 484.109.*

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

~~(a)~~ (1) Except as otherwise provided in subsection 2, initiating conversation with potential passengers;

~~(b)~~ (2) Shouting information;

~~(c)~~ (3) Waving signs;

~~(d)~~ (4) Waving arms or hands;

~~(e)~~ (5) Flashing lights;

~~(f)~~ (6) Ringing bells;

~~(g)~~ (7) Blowing horns;

~~(h)~~ (8) Blocking access to other motor carriers; or

~~(i)~~ (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. 8. NAC 706.247 is hereby amended to read as follows:

706.247 1. The Department, the Department of Public Safety and the *Nevada* 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 *of Motor Vehicles* and the *Nevada* 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 *Nevada* 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 *Nevada* 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 *compliance enforcement officers of the Nevada* 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. *Each compliance enforcement officer employed by the Nevada Transportation Authority pursuant to NRS 706.176 shall complete training regarding federal regulations adopted by reference in 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.*

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.]~~ \$32. 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.]~~ \$60. The volumes are also available at the Internet address <http://www.gpoaccess.gov/cfr/index.html>.

Sec. 9. NAC 706.379 is hereby amended to read as follows:

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 *or limousine* that may be operated remotely by the driver of the taxicab *or limousine* 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 *or limousine* 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 *Nevada* 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.

Sec. 10. NAC 706.9914 is hereby amended to read as follows:

706.9914 1. Not later than 15 days after the date of service of a final decision of the Taxicab Authority rendered pursuant to NRS 706.8819, an aggrieved party may appeal the decision to the *Nevada* Transportation ~~{Services}~~ Authority by:

(a) Filing a notice of appeal with the *Nevada* Transportation ~~{Services}~~ Authority; and
(b) Serving a copy of the notice of appeal upon the Taxicab Authority and all parties of record ~~{ }~~ *to the proceeding that was before the Taxicab Authority.*

2. A notice of appeal must include, without limitation:

(a) A statement indicating that the appellant is an aggrieved party who is appealing a final decision of the Taxicab Authority;

(b) The case name and number of the final decision being appealed; and

(c) The date on which the final decision was rendered by the Taxicab Authority.

3. A notice of appeal must be accompanied by:

(a) A copy of the final decision rendered by the Taxicab Authority that is being appealed; and

(b) A filing fee of \$200 payable to the *Nevada* Transportation ~~{Services}~~ Authority.

4. Any party to the proceeding that was before the Taxicab Authority who desires to participate in the appeal must, within 20 days after service of the notice of appeal:

(a) File a statement of intent to participate in the appeal with the Nevada Transportation Authority; and

(b) Serve the statement upon the Taxicab Authority and all parties of record to the proceeding that was before the Taxicab Authority..