

**PROPOSED REGULATION OF THE NEVADA
TRANSPORTATION AUTHORITY**

LCB File No. R061-13

September 12, 2013

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

AUTHORITY: §§ 1-4, NRS 706.171; §5, NRS 706.171, 706.173 and 706.475; §6, NRS 706.171 and 706.321.

A REGULATION relating to motor carriers; revising the definitions of “bus” and “livery limousine”; revising provisions governing whether the Nevada Transportation Authority will consider a provider of free shuttle service to be a common motor carrier; revising provisions relating to the amount of the commission or referral fee which an authorized carrier who is a fully regulated carrier may pay to a designated agent who arranges for the provision of transportation services by the carrier; revising provisions governing the period during which certain motor vehicles may be placed in service as taxicabs; revising provisions relating to fuel surcharges assessed by charter limousine operators; and providing other matters properly relating thereto.

Section 1. NAC 706.022 is hereby amended to read as follows:

706.022 ***1.*** “Bus” means any motor vehicle originally manufactured with a capacity of 16 or more persons, including the driver, designed, constructed and used for the transportation of passengers, their baggage and light express.

2. *The term does not include a motor vehicle which has:*

(a) *A lengthened chassis or wheelbase, whether the extension was performed by the original manufacturer or by any other person; or*

(b) *Appointments or amenities characteristic of a limousine, including, without limitation:*

(1) *A privacy panel between the driver and passenger compartments;*

(2) *Nightclub-style lighting such as rotating lights or lasers;*

(3) Lounge-style seating or seating otherwise configured in any manner other than in rows of forward-facing seats; or

(4) Other amenities not typically found in a charter bus.

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 ~~was~~ :

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

2. Was originally manufactured as having a capacity of 16 or more persons, including the driver, and which has:

(a) A lengthened chassis or wheelbase, whether the extension was performed by the original manufacturer or by any other person; or

(b) Appointments or amenities characteristic of a limousine, including, without limitation:

(1) A privacy panel between the driver and passenger compartments;

(2) Nightclub-style lighting such as rotating lights or lasers;

(3) Lounge-style seating or seating otherwise configured in any manner other than in rows of forward-facing seats; or

(4) Other amenities not typically found in a charter bus.

Sec. 3. NAC 706.147 is hereby amended to read as follows:

706.147 1. The Authority will consider a provider of free shuttle service to passengers who may or may not have baggage to be a common motor carrier unless all of the following conditions are met:

(a) The provider's business is not the transportation of property or passengers and any transportation furnished is incidental to its business.

(b) The provider indicates in any advertisement including information on free transportation that the transportation will only be furnished to its customers. Such information must be incidental to an advertisement of the business.

(c) The provider ensures that transportation is provided only to its customers.

(d) Except as otherwise provided in this paragraph, transportation is furnished only ~~iff~~ *from a point of origin to* the provider's *licensed* place of business ~~is~~ *and from the provider's licensed place of business back to* the *same* point of origin. ~~for the point of destination of each customer's trip.~~ If the provider is a health insurer licensed to transact insurance in this State, the provider may provide transportation, other than emergency transportation, to an insured between a medical facility where medical services covered by the health insurer have been or will be rendered and another medical facility or the residence of the insured.

(e) The driver is prohibited from soliciting gratuities, either directly or indirectly, or from placing a container for gratuities in the vehicle used to provide the free shuttle service. The driver may accept unsolicited gratuities.

(f) The driver is not compensated based upon the number of persons transported in a given period.

(g) The vehicle used to provide the free shuttle service is owned by and registered to:

- (1) The provider, at the place of business of the provider;
- (2) A subsidiary of the provider, at the place of business of the subsidiary;
- (3) An affiliate that controls the provider, at the place of business of the affiliate; or
- (4) A certificate holder, at the place of business of the certificate holder.

(h) The driver is employed by the person to whom the vehicle used to provide the free shuttle service is registered, as set forth in paragraph (g), or an affiliate of that person.

(i) The vehicle used to provide the free shuttle service is properly marked on each side of the vehicle with the name or logo of the provider. Such markings must be at least 2 inches high and be visible from a distance of at least 50 feet.

2. The Authority will not consider the placement of the name of the business on the side of the vehicle used to provide the free shuttle service as an advertisement for transportation.

3. As used in this section:

(a) “Affiliate” has the meaning ascribed to it in NRS 692C.030.

(b) “Subsidiary” has the meaning ascribed to it in NRS 692C.100.

Sec. 4. NAC 706.311 is hereby amended to read as follows:

706.311 1. Except as otherwise provided in NRS 706.351, an authorized carrier shall not:

(a) 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, fares or charges applicable to the transportation as specified in its tariffs filed and in effect at the time.

(b) Refund or remit in any manner or by any device any portion of the rates, fares or charges so specified except upon orders of the courts or the Authority, or extend to the shipper or person any privilege or facility in the transportation of passengers or property except as specified in the tariffs.

(c) Submit a bid to provide services in any form or manner which is not in conformance with the certificate he or she holds.

(d) Use any artifice or subterfuge, or billing or accounting practice in lieu of an authorized commission. The fare or rate charged to the passenger or shipper may not be greater than or different from the fare or rate specified in the tariffs in effect at the time because of the authorized commission.

2. An authorized carrier who is a fully regulated carrier may pay a commission or referral fee to a designated agent who arranges for the provision of transportation services by the carrier. Except as otherwise provided in subsection 6, a commission or referral fee authorized pursuant to this subsection must not exceed ~~10~~ 15 percent of the rate, fare or charge specified in the carrier's tariffs for the type of service that the designated agent has arranged for the carrier to provide.

3. A designated agent arranging or providing transportation on the vehicles of any certificated motor carrier shall not charge, demand, collect or receive a greater, lesser or different compensation for the transportation of persons or property or any service in connection therewith than the rates, fares or charges specified in the motor carrier's tariffs.

4. All tickets issued by a carrier or its designated agent must identify the charge to the passenger for the service or transportation purchased. That charge may not be different from the tariff on file with the Authority.

5. A carrier that uses or intends to use the services of a designated agent within this State shall keep a complete list of its designated agents which must be made available for review by the staff of the Authority.

6. An authorized carrier that provides scenic tours may pay a commission or referral fee of up to 35 percent to a designated agent who arranges for the provision of scenic tours by the carrier.

Sec. 5. NAC 706.3745 is hereby amended to read as follows:

706.3745 1. In addition to the requirements set forth in NAC 706.379, a certificate holder that is authorized to operate taxicabs between points and places within a county whose population is ~~more than~~ 100,000 *or more* but less than ~~400,000~~ *700,000* shall ensure that each vehicle which the certificate holder places into service as a taxicab for the first time:

- (a) Is new; or
- (b) Has been driven less than 50,000 miles.

2. ~~##~~ *Except as otherwise provided in subsection 6, if* a certificate holder places a new vehicle into service as a taxicab, the vehicle must not be used as a taxicab for more than ~~60~~ *72* months after the date on which the vehicle was placed into service.

3. ~~##~~ *Except as otherwise provided in subsection 6, if* a certificate holder places a vehicle that has been driven less than 50,000 miles into service as a taxicab for the first time, the vehicle must not be used as a taxicab for more than ~~48~~ *55* months after the date on which the vehicle was placed into service.

4. Upon the receipt of a petition from a certificate holder, the Authority may exempt from the requirements of this section up to 10 percent of the vehicles of the fleet of the certificate holder which are:

- (a) Restored theme or antique vehicles; or
- (b) Manufactured in a foreign country and not used commonly within the United States in the business of transporting passengers for hire.

5. If a certificate holder places into service as a taxicab a vehicle that has been granted an exemption pursuant to subsection 4, the certificate holder shall, within 30 days after each date on which the vehicle completes 150,000 miles of operation as a taxicab:

- (a) Replace or rebuild the engine of the vehicle;
- (b) Inspect the brake drums of the vehicle and replace the brake drums if necessary; and
- (c) Inspect the frame of the vehicle for cracks and bends that are not intended to be part of the frame.

6. *If a hybrid electric vehicle, as that term is defined in 40 C.F.R. § 86.1702-99, is acquired by a certificate holder for use as a taxicab, the period described in subsection 2 or 3 during which the hybrid electric vehicle may be operated as a taxicab is extended for an additional period of 24 months.*

7. If the Authority determines that a certificate holder has violated any provision of this section, the Authority will:

- (a) Cause the taxicab in regard to which the violation occurred to be withdrawn from service; and
- (b) Impose upon the certificate holder an administrative fine pursuant to NRS 706.771.

↪ A taxicab withdrawn from service pursuant to this subsection must not be placed back in service until the Authority inspects the taxicab and verifies that the violation has been corrected.

Sec. 6. Section 2 of LCB File No. R111-10 is hereby amended to read as follows:

Sec. 2. 1. In addition to the rates and fares included in the tariff on file with the Authority, a carrier authorized to provide charter service by limousine may charge and collect from the carrier's passengers a fuel surcharge in an amount determined pursuant to this section.

2. A carrier authorized to provide charter service by limousine who charges and collects a fuel surcharge shall compute the amount of the fuel surcharge on an hourly basis in accordance with the following table:

Fuel Price:	Surcharge per Hour:
\$2.25-2.74	\$2.00
\$2.75-3.24	\$3.00
\$3.25-3.74	\$4.00
\$3.75-4.24	\$5.00
\$4.25-4.74	\$6.00
\$4.75-5.24	\$7.00
\$5.25-5.74	\$8.00
\$5.75-6.24	\$9.00
\$6.25-6.74	\$10.00

3. *The minimum surcharge pursuant to subsection 2 is an amount equal to the appropriate surcharge for 1 hour as determined from the table set forth in subsection 2. Periods of more than 1 hour may be charged in increments of one-half hour.*

4. For the purposes of the table set forth in subsection 2, the fuel price must be determined in the following manner:

(a) For a limousine which does not use diesel fuel, the fuel price is an amount equal to the retail price per gallon of regular fuel effective for the 25th calendar day of the immediately preceding month according to the United States Department of Energy, Energy Information Administration survey on Weekly Retail Gasoline and Diesel Prices, Regular Grade - West Coast (PADD 5).

(b) For a limousine which uses diesel fuel, the fuel price is an amount equal to the retail price per gallon of diesel effective for the 25th calendar day of the immediately preceding month according to the United States Department of Energy, Energy Information Administration survey on Weekly Retail Gasoline and Diesel Prices, Diesel, All Types - West Coast (PADD 5).

~~4~~ 5. The fuel prices described in paragraphs (a) and (b) of subsection ~~3~~ 4 may be obtained by calling the United States Department of Energy, Energy Information Administration at (202) 586-8800 or on the Internet website of the United States Department of Energy, Energy Information Administration at **www.eia.doe.gov**.

~~5~~ 6. A carrier authorized to provide charter service by limousine who intends to charge and collect a fuel ~~charge~~ *surcharge* pursuant to this section shall include in its tariff on file with the Authority the table and rules set forth in this section.