

Amendment No. 245

Senate Amendment to Senate Bill No. 456	(BDR 58-1089)
Proposed by: Senate Committee on Transportation	
Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

Adoption of this amendment will REMOVE the 2/3s majority vote requirement from S.B. 456.

ASSEMBLY ACTION			Initial and Date		SENATE ACTION			Initial and Date	
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) green bold underlining is newly added transitory language.

DLJ/MSM



Date: 4/16/2013

S.B. No. 456—Revises provisions relating to operators of tow cars. (BDR 58-1089)



SENATE BILL NO. 456—COMMITTEE ON TRANSPORTATION

MARCH 25, 2013

Referred to Committee on Transportation

SUMMARY—Revises provisions relating to operators of tow cars. (BDR 58-1089)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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

AN ACT relating to tow cars; authorizing certain insurance companies to designate vehicle storage lots; requiring operators of tow cars to tow certain vehicles to designated vehicle storage lots under certain circumstances; ~~requiring certain vehicle storage lots to pay a fee under certain circumstances;~~ revising certain provisions relating to operators of tow cars; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 **Section 1** of this bill authorizes an insurance company to designate certain vehicle storage
2 lots to which certain vehicles insured by the insurance company must be towed under certain
3 circumstances. **Section 1** requires a law enforcement officer to make a good faith effort to
4 determine the identity of the insurance company that provides coverage for the owner of such
5 a vehicle and to make a good faith effort to communicate that information to the operator of
6 the tow car before the vehicle is towed. ~~Section 1 also requires the owners of designated~~
7 ~~vehicle storage lots to pay a fee, determined by the Nevada Transportation Authority, to the~~
8 ~~law enforcement agency whose officer requested the vehicle to be towed.~~ **Section 1** further
9 provides that the amendatory provisions of this bill apply only to a county whose population is
10 700,000 or more (currently Clark County).

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

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

3 *1. An insurance company may designate a vehicle storage lot to which all*
4 *~~inoperable~~ vehicles that are inoperable because of an accident or ~~stolen~~*
5 *~~vehicles that~~ which have been recovered after having been stolen and which are*
6 *insured by that insurance company must be towed ~~+~~ pursuant to subsection 2.*
7 *The designation of a vehicle storage lot must be provided in writing by the*
8 *insurance company, its representative or the owner or operator of the vehicle*
9 *storage lot to all providers of towing services that have obtained a certificate of*

1 public convenience and necessity and operate in the same geographical area in
2 which the designated vehicle storage lot is situated.

3 2. If a law enforcement officer requests that an operator of a tow car tow a
4 vehicle that is inoperable because of an accident or ~~to a vehicle~~ which
5 was recovered after having been stolen and is not otherwise subject to impoundment,
6 the law enforcement officer shall make a good faith effort to determine the
7 identity of the insurance company that provides coverage for the owner of the
8 vehicle. If the law enforcement officer determines the identity of the insurance
9 company, he or she shall inform the operator of the tow car of the identity of the
10 insurance company. If the operator of the tow car:

11 (a) Is informed by a law enforcement officer of the identity of the insurance
12 company that provides coverage for the owner of the vehicle; or

13 (b) Otherwise determines the identity of the insurance company that provides
14 coverage for the owner of the vehicle,

15 and the insurance company has designated a vehicle storage lot pursuant to
16 subsection 1, the operator of the tow car shall tow the vehicle to the designated
17 vehicle storage lot unless the owner of the vehicle or a representative of the
18 insurance company has directed otherwise.

19 3. If an operator of a tow car fails to tow a vehicle to the designated vehicle
20 storage lot pursuant to subsection 2, the operator of the tow car shall:

21 (a) Forfeit the charge for towing and storage of the vehicle; and

22 (b) Tow the vehicle free of charge to the vehicle storage lot designated by the
23 insurance company or its representative not later than 24 hours after receiving a
24 demand, which must be made in writing or by electronic mail, from the insurance
25 company or its representative.

26 4. The owners of a vehicle storage lot designated by an insurance company
27 pursuant to subsection 1 shall agree in writing to ~~+~~

28 ~~(a) Indemnify~~ indemnify the relevant law enforcement agencies and their
29 officers, employees, agents and representatives from any liability relating to the
30 towing of a vehicle insured by the designating insurance company and to the
31 storing of the vehicle at the vehicle storage lot if the law enforcement officer who
32 requested the towing of the vehicle made a good faith effort to comply with the
33 provisions of subsection 2. ~~+~~ and

34 ~~(b) Pay the fee determined by the Authority pursuant to subsection 8 for each~~
35 ~~vehicle towed to the vehicle storage lot pursuant to this section for which the~~
36 ~~designating insurance company provides coverage for the owner of the vehicle.~~
37 ~~The fee must be paid to the law enforcement agency whose officer requested the~~
38 ~~vehicle be towed.~~

39 5. A vehicle storage lot must:

40 (a) Except as otherwise provided in subsection 6, comply with all applicable
41 requirements imposed pursuant to NRS 706.4485 on an operator of a tow car;

42 ~~and~~

43 (b) Comply with all applicable local laws and ordinances, including, without
44 limitation, local laws and ordinances relating to business licenses, zoning,
45 building and fire codes, parking, paving, lights and security ~~+~~; and

46 (c) If the vehicle storage lot is a salvage pool as that term is defined in NRS
47 487.400, comply with all applicable requirements imposed pursuant to NRS
48 487.400 to 487.510, inclusive.

49 6. A vehicle storage lot is not required to assess the rates and charges that
50 have been approved by the Authority for the storage of a vehicle, but may not
51 assess a rate or charge in excess of those approved rates and charges. An
52 operator of a tow car who tows a vehicle to a vehicle storage lot pursuant to this
53 section ~~shall~~ :

1 (a) Shall assess the rates and charges approved by the Authority for towing
2 the vehicle.

3 (b) Is entitled to payment from the operator of the vehicle storage lot at the
4 time the vehicle is towed to the vehicle storage lot.

5 7. Before designating a vehicle storage lot pursuant to subsection 1, an
6 insurance company must obtain the approval of the Authority. The Authority
7 shall approve the designation if the Authority determines that the vehicle storage
8 lot has:

9 (a) Executed an indemnification agreement that meets the requirements of
10 ~~paragraph (a) of~~ subsection 4;

11 ~~(b) Agreed to pay the fee approved by the Authority for each vehicle towed to~~
12 ~~the lot pursuant to paragraph (b) of subsection 4;~~

13 ~~(c) Satisfied the requirements of subsection 5; and~~

14 ~~(d)~~ (c) Otherwise satisfied the requirements of this section.

15 8. ~~The Authority shall determine the amount of the fee to be paid by a~~
16 ~~vehicle storage lot pursuant to paragraph (b) of subsection 4.~~

17 ~~9.~~ The provisions of this section apply only to a county whose population is
18 700,000 or more.

19 ~~10.~~ 9. As used in this section:

20 (a) "Boat" means any vessel or other watercraft, other than a seaplane, used
21 or capable of being used as a means of transportation on the water.

22 (b) "Vehicle" has the meaning ascribed to it in NRS 706.146 and includes all
23 terrain vehicles and boats.

24 (c) "Vehicle storage lot" means a business which, for a fee, stores vehicles
25 that are inoperable ~~vehicles~~ because of an accident and which have been
26 recovered after having been stolen ~~vehicles~~ and includes, without limitation, a
27 salvage pool as that term is defined in NRS 487.400.

28 Sec. 2. NRS 706.011 is hereby amended to read as follows:

29 706.011 As used in NRS 706.011 to 706.791, inclusive, *and section 1 of this*
30 *act*, unless the context otherwise requires, the words and terms defined in NRS
31 706.013 to 706.146, inclusive, have the meanings ascribed to them in those
32 sections.

33 Sec. 3. NRS 706.163 is hereby amended to read as follows:

34 706.163 The provisions of NRS 706.011 to 706.861, inclusive, *and section 1*
35 *of this act* do not apply to vehicles leased to or owned by:

36 1. The Federal Government or any instrumentality thereof.

37 2. Any state or a political subdivision thereof.

38 Sec. 4. NRS 706.166 is hereby amended to read as follows:

39 706.166 The Authority shall:

40 1. Subject to the limitation provided in NRS 706.168 and to the extent
41 provided in this chapter, supervise and regulate:

42 (a) Every fully regulated carrier and broker of regulated services in this State in
43 all matters directly related to those activities of the motor carrier and broker
44 actually necessary for the transportation of persons or property, including the
45 handling and storage of that property, over and along the highways.

46 (b) Every operator of a tow car concerning the rates and charges assessed for
47 towing services performed without the prior consent of the operator of the vehicle
48 or the person authorized by the owner to operate the vehicle and pursuant to the
49 provisions of NRS 706.011 to 706.791, inclusive ~~H~~, *and section 1 of this act*.

50 2. Supervise and regulate the storage of household goods and effects in
51 warehouses and the operation and maintenance of such warehouses in accordance
52 with the provisions of this chapter and chapter 712 of NRS.

1 3. Enforce the standards of safety applicable to the employees, equipment,
2 facilities and operations of those common and contract carriers subject to the
3 Authority or the Department by:

- 4 (a) Providing training in safety;
5 (b) Reviewing and observing the programs or inspections of the carrier relating
6 to safety; and
7 (c) Conducting inspections relating to safety at the operating terminals of the
8 carrier.

9 4. To carry out the policies expressed in NRS 706.151, adopt regulations
10 providing for agreements between two or more fully regulated carriers or two or
11 more operators of tow cars relating to:

- 12 (a) Fares of fully regulated carriers;
13 (b) All rates of fully regulated carriers and rates of operators of tow cars for
14 towing services performed without the prior consent of the owner of the vehicle or
15 the person authorized by the owner to operate the vehicle;
16 (c) Classifications;
17 (d) Divisions;
18 (e) Allowances; and
19 (f) All charges of fully regulated carriers and charges of operators of tow cars
20 for towing services performed without the prior consent of the owner of the vehicle
21 or the person authorized by the owner to operate the vehicle, including charges
22 between carriers and compensation paid or received for the use of facilities and
23 equipment.

24 ↘ These regulations may not provide for collective agreements which restrain any
25 party from taking free and independent action.

26 5. Review decisions of the Taxicab Authority appealed to the Authority
27 pursuant to NRS 706.8819.

28 **Sec. 5.** NRS 706.286 is hereby amended to read as follows:

29 706.286 1. When a complaint is made against any fully regulated carrier or
30 operator of a tow car by any person, that:

31 (a) Any of the rates, tolls, charges or schedules, or any joint rate or rates
32 assessed by any fully regulated carrier or by any operator of a tow car for towing
33 services performed without the prior consent of the owner of the vehicle or the
34 person authorized by the owner to operate the vehicle are in any respect
35 unreasonable or unjustly discriminatory;

36 (b) Any of the provisions of NRS 706.445 to 706.453, inclusive, *and section 1*
37 *of this act* have been violated;

38 (c) Any regulation, measurement, practice or act directly relating to the
39 transportation of persons or property, including the handling and storage of that
40 property, is, in any respect, unreasonable, insufficient or unjustly discriminatory; or

41 (d) Any service is inadequate,

42 ↘ the Authority shall investigate the complaint. After receiving the complaint, the
43 Authority shall give a copy of it to the carrier or operator of a tow car against whom
44 the complaint is made. Within a reasonable time thereafter, the carrier or operator
45 of a tow car shall provide the Authority with its written response to the complaint
46 according to the regulations of the Authority.

47 2. If the Authority determines that probable cause exists for the complaint, it
48 shall order a hearing thereof, give notice of the hearing and conduct the hearing as
49 it would any other hearing.

50 3. No order affecting a rate, toll, charge, schedule, regulation, measurement,
51 practice or act complained of may be entered without a formal hearing unless the
52 hearing is dispensed with as provided in NRS 706.2865.

1 **Sec. 6.** NRS 706.321 is hereby amended to read as follows:

2 706.321 1. Except as otherwise provided in subsection 2, every common or
3 contract motor carrier shall file with the Authority:

4 (a) Within a time to be fixed by the Authority, schedules and tariffs that must:

5 (1) Be open to public inspection; and

6 (2) Include all rates, fares and charges which the carrier has established
7 and which are in force at the time of filing for any service performed in connection
8 therewith by any carrier controlled and operated by it.

9 (b) As a part of that schedule, all regulations of the carrier that in any manner
10 affect the rates or fares charged or to be charged for any service and all regulations
11 of the carrier that the carrier has adopted to comply with the provisions of NRS
12 706.011 to 706.791, inclusive **H**, **and section 1 of this act.**

13 2. Every operator of a tow car shall file with the Authority:

14 (a) Within a time to be fixed by the Authority, schedules and tariffs that must:

15 (1) Be open to public inspection; and

16 (2) Include all rates and charges for towing services performed without the
17 prior consent of the owner of the vehicle or the person authorized by the owner to
18 operate the vehicle which the operator has established and which are in force at the
19 time of filing.

20 (b) As a part of that schedule, all regulations of the operator of the tow car
21 which in any manner affect the rates charged or to be charged for towing services
22 performed without the prior consent of the owner of the vehicle or the person
23 authorized by the owner to operate the vehicle and all regulations of the operator of
24 the tow car that the operator has adopted to comply with the provisions of NRS
25 706.011 to 706.791, inclusive **H**, **and section 1 of this act.**

26 3. No changes may be made in any schedule, including schedules of joint
27 rates, or in the regulations affecting any rates or charges, except upon 30 days'
28 notice to the Authority, and all those changes must be plainly indicated on any new
29 schedules filed in lieu thereof 30 days before the time they are to take effect. The
30 Authority, upon application of any carrier, may prescribe a shorter time within
31 which changes may be made. The 30 days' notice is not applicable when the carrier
32 gives written notice to the Authority 10 days before the effective date of its
33 participation in a tariff bureau's rates and tariffs, provided the rates and tariffs have
34 been previously filed with and approved by the Authority.

35 4. The Authority may at any time, upon its own motion, investigate any of the
36 rates, fares, charges, regulations, practices and services filed pursuant to this section
37 and, after hearing, by order, make such changes as may be just and reasonable.

38 5. The Authority may dispense with the hearing on any change requested in
39 rates, fares, charges, regulations, practices or service filed pursuant to this section.

40 6. All rates, fares, charges, classifications and joint rates, regulations,
41 practices and services fixed by the Authority are in force, and are prima facie
42 lawful, from the date of the order until changed or modified by the Authority, or
43 pursuant to NRS 706.2883.

44 7. All regulations, practices and service prescribed by the Authority must be
45 enforced and are prima facie reasonable unless suspended or found otherwise in an
46 action brought for the purpose, or until changed or modified by the Authority itself
47 upon satisfactory showing made.

48 **Sec. 7.** NRS 706.4463 is hereby amended to read as follows:

49 706.4463 1. In addition to the other requirements of this chapter, each
50 operator of a tow car shall, to protect the health, safety and welfare of the public:

51 (a) Obtain a certificate of public convenience and necessity from the Authority
52 before the operator provides any services other than those services which the

1 operator provides as a private motor carrier of property pursuant to the provisions
2 of this chapter;

3 (b) Use a tow car of sufficient size and weight which is appropriately equipped
4 to transport safely the vehicle which is being towed; and

5 (c) Comply with the provisions of NRS 706.011 to 706.791, inclusive **H**, *and*
6 *section 1 of this act*.

7 2. A person who wishes to obtain a certificate of public convenience and
8 necessity to operate a tow car must file an application with the Authority.

9 3. The Authority shall issue a certificate of public convenience and necessity
10 to an operator of a tow car if it determines that the applicant:

11 (a) Complies with the requirements of paragraphs (b) and (c) of subsection 1;

12 (b) Complies with the requirements of the regulations adopted by the Authority
13 pursuant to the provisions of this chapter;

14 (c) Has provided evidence that the applicant has filed with the Authority a
15 liability insurance policy, a certificate of insurance or a bond of a surety and
16 bonding company or other surety required for every operator of a tow car pursuant
17 to the provisions of NRS 706.291; and

18 (d) Has provided evidence that the applicant has filed with the Authority
19 schedules and tariffs pursuant to subsection 2 of NRS 706.321.

20 4. An applicant for a certificate has the burden of proving to the Authority
21 that the proposed operation will meet the requirements of subsection 3.

22 5. The Authority may hold a hearing to determine whether an applicant is
23 entitled to a certificate only if:

24 (a) Upon the expiration of the time fixed in the notice that an application for a
25 certificate of public convenience and necessity is pending, a petition to intervene
26 has been granted by the Authority; or

27 (b) The Authority finds that after reviewing the information provided by the
28 applicant and inspecting the operations of the applicant, it cannot make a
29 determination as to whether the applicant has complied with the requirements of
30 subsection 3.

31 **Sec. 8.** NRS 706.4464 is hereby amended to read as follows:

32 706.4464 1. An operator of a tow car who is issued a certificate of public
33 convenience and necessity may transfer it to another operator of a tow car qualified
34 pursuant to the provisions of NRS 706.011 to 706.791, inclusive, *and section 1 of*
35 *this act*, but no such transfer is valid for any purpose until a joint application to
36 make the transfer is made to the Authority by the transferor and the transferee, and
37 the Authority has authorized the substitution of the transferee for the transferor. No
38 transfer of stock of a corporate operator of a tow car subject to the jurisdiction of
39 the Authority is valid without the prior approval of the Authority if the effect of the
40 transfer would be to change the corporate control of the operator of a tow car or if a
41 transfer of 15 percent or more of the common stock of the operator of a tow car is
42 proposed.

43 2. The Authority shall approve an application filed with it pursuant to
44 subsection 1 if it determines that the transferee:

45 (a) Complies with the provisions of NRS 706.011 to 706.791, inclusive, *and*
46 *section 1 of this act* and the regulations adopted by the Authority pursuant to those
47 provisions;

48 (b) Uses equipment that is in compliance with the regulations adopted by the
49 Authority;

50 (c) Has provided evidence that the transferee has filed with the Authority a
51 liability insurance policy, a certificate of insurance or a bond of a surety and
52 bonding company or other surety required for every operator of a tow car pursuant
53 to the provisions of NRS 706.291; and

1 (d) Has provided evidence that the transferee has filed with the Authority
2 schedules and tariffs pursuant to NRS 706.321 which contain rates and charges and
3 the terms and conditions that the operator of the tow car requires to perform towing
4 services without the prior consent of the owner of the vehicle or the person
5 authorized by the owner to operate the vehicle which do not exceed the rates and
6 charges that the transferor was authorized to assess for the same services.

7 3. The Authority may hold a hearing concerning an application submitted
8 pursuant to this section only if:

9 (a) Upon the expiration of the time fixed in the notice that an application for
10 transfer of a certificate of public convenience and necessity is pending, a petition to
11 intervene has been granted by the Authority; or

12 (b) The Authority finds that after reviewing the information provided by the
13 applicant and inspecting the operations of the applicant, it cannot make a
14 determination as to whether the applicant has complied with the requirements of
15 subsection 2.

16 4. The Authority shall not hold a hearing on an application submitted
17 pursuant to this section if the application is made to transfer the certificate of public
18 convenience and necessity from a natural person or partners to a corporation whose
19 controlling stockholders will be substantially the same person or partners.

20 5. The approval by the Authority of an application for transfer of a certificate
21 of public convenience and necessity of an operator of a tow car is not valid after the
22 expiration of the term for the transferred certificate.

23 **Sec. 9.** NRS 706.4483 is hereby amended to read as follows:

24 706.4483 1. The Authority shall act upon complaints regarding the failure
25 of an operator of a tow car to comply with the provisions of NRS 706.011 to
26 706.791, inclusive ~~H~~, *and section 1 of this act.*

27 2. In addition to any other remedies that may be available to the Authority to
28 act upon complaints, the Authority may order the release of towed motor vehicles,
29 cargo or personal property upon such terms and conditions as the Authority
30 determines to be appropriate.

31 **Sec. 10.** NRS 706.4485 is hereby amended to read as follows:

32 706.4485 1. A law enforcement agency that maintains and uses a list of
33 operators of tow cars which are called by that agency to provide towing shall not
34 include an operator of a tow car on the list unless the operator:

35 (a) Holds a certificate of public convenience and necessity issued by the
36 Authority.

37 (b) Complies with all applicable provisions of this chapter and chapters 482
38 and 484A to 484E, inclusive, of NRS.

39 (c) Agrees to respond in a timely manner to requests for towing made by the
40 agency.

41 (d) Maintains adequate, accessible and secure storage within the State of
42 Nevada for any vehicle that is towed.

43 (e) Complies with all standards the law enforcement agency may adopt to
44 protect the health, safety and welfare of the public.

45 (f) ~~Assesses~~ *Except as otherwise provided in section 1 of this act, assesses*
46 only rates and charges that have been approved by the Authority for towing
47 services performed without the prior consent of the owner of the vehicle or the
48 person authorized by the owner to operate the vehicle.

49 2. The Authority shall not require that an operator of a tow car charge the
50 same rate to law enforcement agencies for towing services performed without the
51 prior consent of the owner of the vehicle or the person authorized by the owner to
52 operate the vehicle that the operator charges to other persons for such services.

1 3. Except as otherwise provided in this subsection, if an operator of a tow car
2 is included on a list of operators of tow cars that is maintained and used by the
3 Nevada Highway Patrol pursuant to this section, the Nevada Highway Patrol shall
4 not remove the operator of the tow car from the list, or restrict the operator's use
5 pursuant thereto, solely on the ground that the operator is insured under the same
6 policy of insurance as one other operator of a tow car who is included on the list
7 and operates in the same geographical area. An operator of a tow car is not eligible
8 for inclusion on the list if the operator is insured under the same policy of insurance
9 as two or more other operators of tow cars who are included on the list and operate
10 in the same geographical area.

11 **Sec. 11.** NRS 706.781 is hereby amended to read as follows:

12 706.781 In addition to all the other remedies provided by NRS 706.011 to
13 706.861, inclusive, *and section 1 of this act*, for the prevention and punishment of
14 any violation of the provisions thereof and of all orders of the Authority or the
15 Department, the Authority or the Department may compel compliance with the
16 provisions of NRS 706.011 to 706.861, inclusive, *and section 1 of this act*, and
17 with the orders of the Authority or the Department by proceedings in mandamus,
18 injunction or by other civil remedies.

19 **Sec. 12.** This act becomes effective upon passage and approval.