

**PROPOSED REGULATION OF THE
DEPARTMENT OF MOTOR VEHICLES**

LCB File No. R062-06

May 19, 2006

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

AUTHORITY: §§1-6, NRS 706.171 and 706.291.

A REGULATION relating to motor carriers of property; defining certain terms relating to motor carriers of property; revising the minimum amounts of insurance coverage that motor carriers of property must maintain; repealing certain provisions relating to motor carriers of property; 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:

As used in NRS 706.437, the Director of the Department will interpret the term “common carrier of property” to mean any person or operator, including a motor convoy carrier, who operates a motor vehicle or a combination of vehicles with a gross vehicle weight rating in excess of 26,000 pounds and who holds himself out to the public as willing to transport by motor vehicle from place to place, either upon a fixed route or on-call operations, the property of all who may choose to employ him.

Sec. 2. NAC 706.140 is hereby amended to read as follows:

706.140 Every common or contract motor carrier shall comply with NAC ~~[706.143]~~ **706.147** to 706.269, inclusive, and shall instruct his employees and agents concerned with the transportation of persons or property by motor vehicle with respect thereto.

Sec. 3. NAC 706.285 is hereby amended to read as follows:

706.285 As used in NAC 706.285 to 706.297, inclusive, *and section 1 of this regulation, unless the context otherwise requires*, “private motor carrier” means a private motor carrier of property used for private commercial enterprises on any highway in this State ~~[-]~~ *who operates a motor vehicle or a combination of vehicles with a gross vehicle weight rating in excess of 10,000 pounds.*

Sec. 4. NAC 706.288 is hereby amended to read as follows:

706.288 Each common or contract motor carrier of property, other than a fully regulated carrier, and each private motor carrier shall maintain a contract of insurance against liability for injury to persons and damage to property in the following minimum amounts:

1. If the carrier is authorized to transport only freight:

- ~~[(a) For bodily injuries to or the death of one person, a limit of \$500,000;~~
- ~~—(b) For bodily injuries to or the death of all persons injured or killed in any one accident, a limit of \$500,000; and~~
- ~~—(c) For the loss of or damage to the property of others, excluding cargo, in any one accident, a limit of \$500,000.]~~

	<i>Limit for bodily injuries to or death of one person</i>	<i>Limit for bodily injuries to or death of all persons injured or killed in any one accident</i>	<i>Limit for loss or damage in any one accident to property of others, excluding cargo</i>
<i>A motor vehicle or a combination of vehicles with a gross vehicle weight rating of</i>	<i>\$300,000</i>	<i>\$300,000</i>	<i>\$300,000</i>

<i>10,001 to 26,000 pounds</i>			
<i>A motor vehicle or a combination of vehicles with a gross vehicle weight rating of 26,001 to 80,000 pounds</i>	<i>750,000</i>	<i>750,000</i>	<i>750,000</i>

↪ Any of these amounts may be a single combined limit.

2. If the carrier is authorized to transport ~~the following commodities:~~

	Limit for bodily injuries to or death of one person	Limit for bodily injuries to or death of all persons injured or killed in any one accident, subject to a maximum of \$300,000 for bodily injuries to or death of each person	Limit for loss or damage in any one accident to property of others, excluding cargo
Hazardous substances as defined in 49 C.F.R. § 171.6, as that section existed on January 1, 1987, liquefied compressed gas or compressed gas in cargo tanks, portable tanks or hoppers	—\$300,000	—\$2,500,000	—\$5,000,000

with capacities of more than 3,500 liquid gallons			
Oil as listed in 49 C.F.R. § 171.101 and hazardous materials and substances as defined in 49 C.F.R. § 171.8 and listed in 49 C.F.R. § 172.101 as those sections existed on January 1, 1987	—300,000	—2,500,000	—1,000,000
Class A or Class B explosives, poisonous gas or radioactive materials as defined in 49 C.F.R. § 172.101 as that section existed on January 1, 1987	—300,000	—2,500,000	—5,000,000}

hazardous commodities the carrier must maintain the limits as specified in 49 C.F.R. § 387.303.

3. Except as otherwise provided in subsection 4, each common or contract motor carrier of property, other than a fully regulated carrier, shall maintain insurance in the following minimum amounts to compensate shippers or consignees for loss of or damage to property belonging to shippers or consignees which comes into the possession of a common or contract motor carrier or a private motor carrier in connection with his services:

(a) For loss of or damage to property carried on any one motor vehicle, \$15,000.

(b) For loss of or damage to property occurring at any one time and place, or an aggregate of such losses or damages to property, \$30,000.

4. If the minimum amount of insurance required to be maintained pursuant to Title 49 of the Code of Federal Regulations is increased above the amount listed in this section, the common or contract motor carrier of property or the private motor carrier shall, at all times, maintain insurance in an amount that is equal to or greater than the federally required minimum amount.

Sec. 5. NAC 706.294 is hereby amended to read as follows:

706.294 1. Before the Department issues ~~[a certificate or permit]~~ *written approval* to a common or contract motor carrier of property, other than a fully regulated carrier, ~~[or a private motor carrier,]~~ the carrier must:

(a) File with the Department evidence of the necessary insurance for each vehicle which will be operated by the carrier on the form entitled “Bodily Injury and Property Damage (BI/PD) Form ~~[E];~~

~~—(b) Satisfy the requirements of NAC 706.291 for self insurance; or~~

~~—(c)] E” and on the form entitled “Cargo Form H”;~~ *or*

(b) File with the ~~[Motor Carrier Bureau of the Field Services Division of the]~~ Department a certificate of self-insurance obtained from the Department pursuant to NRS ~~[706.3054 or 706.3056.]~~ *485.380.*

2. The forms required pursuant to paragraph (a) of subsection 1 are available from an insurance agent or from Uniform Printing and Supply Incorporated, 132 Flatbush Avenue, Kingston, New York 12401, or Kohnke Printing Company, 375 Fremont Street, San Francisco, California 94105.

3. If a “Notice of Cancellation Form K” is filed with the Department, the Department will cancel the carrier’s written approval to operate, unless evidence of the necessary insurance is filed with the Department before the date of cancellation.

Sec. 6. NAC 706.143, 706.145 and 706.291 are hereby repealed.

TEXT OF REPEALED SECTIONS

706.143 Private motor carrier of property: Affidavit of private carriage. (NRS 706.171, 706.266) A private motor carrier of property who is engaged in the transportation by motor vehicle of property sold, or to be sold, or used in furtherance of a private commercial enterprise, and who does not haul any property for hire, applying for the approval of the Transportation Services Authority for licensing must provide the Transportation Services Authority with an affidavit of private carriage before a license will be approved.

706.145 Considerations for determining whether person is private motor carrier of property. (NRS 706.111, 706.171) In determining whether a person is a private motor carrier of property, the Transportation Services Authority will consider the following:

1. The ownership or bailment of the property transported.
2. A preexisting order of the customer or shipper.
3. The extent of the intermediate use of a warehouse.

4. The difference between the price charged the carrier and the carrier's charge to the customer, and whether it appears that this difference is roughly equivalent to a charge for transportation.

5. The nature of any advertising used.

6. The extent of the carrier's investment in facilities and equipment for transportation.

7. The control exerted by the shipper over the transportation.

8. The burden assumed by the shipper for the costs of the transportation.

9. The status of the transportation as incidental to a business or as a secondary business.

10. The nature and extent to which the carrier uses the highways of this State.

706.291 Programs of self-insurance. (NRS 706.171, 706.291)

1. A common or contract motor carrier of property, other than a fully regulated carrier, or a private motor carrier may apply to operate under a program of self-insurance in lieu of or in addition to the insurance required by NAC 706.288.

2. The application must include:

(a) A certificate of self-insurance issued by the Department pursuant to NRS 485.380.

(b) A letter requesting approval of the program of self-insurance and stating that the applicant understands the provisions of this section.

(c) A proposal setting forth the proposed surety and an explanation of how it corresponds to the requirements of NAC 706.288.

(d) A copy of the carrier's application to the Department for the certificate of self-insurance and a copy of all attachments accompanying the application.

(e) A letter from an adjusting company stating that it has agreed to handle any claims against the carrier if the program of self-insurance is approved by the Department.

(f) Any other information that the applicant considers relevant to the application or the Department may request.

3. A common or contract motor carrier of property, other than a fully regulated carrier, or a private motor carrier may apply for self-insurance at the time of its application for a certificate, permit or license or at any time after the granting of a certificate, permit or license. If a carrier applies after the initial issuance of a certificate, permit or license, that carrier shall maintain the insurance effective for that certificate, permit or license until its program of self-insurance is approved.

4. A common or contract motor carrier of property, other than a fully regulated carrier, or a private motor carrier may combine a contract of insurance and another surety in proposing its guarantee. The carrier shall arrange for an adjusting company to handle any claims that may arise under the surety.

5. Before the Department grants approval of a program of self-insurance pursuant to this section, the carrier must satisfy the Department that the total surety proposed meets the minimum required pursuant to NAC 706.288.

6. The carrier shall, at all times, ensure that any change in its financial position or other circumstances does not jeopardize the surety or the protection of the public.

7. Exemption from the coverage of the insurance of materials and commodities having a low value may, upon specific application by a carrier, be authorized by the Department. An authorized carrier may apply for that exemption whether it is self-insured or otherwise meets the requirements of NAC 706.288.