

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

LCB File No. R111-10

NTA Docket No. 10-04016 (RE: Passenger Carriers)

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

AUTHORITY: §1, NRS 706.171 and 706.321; §2, NRS 706.171, 706.173, 706.475, and 706.692; §§3, 6, and 7, NRS 706.171; §4, NRS 706.171, 706.391, 706.426, 706.443, 706.4464, and 706.6411; §5, NRS 706.171 and NRS 706.173; §§8 and 10, NRS 706.171, 706.173, and 706.475; §§ and 9, NRS 706.171 and 706.475.

A REGULATION relating to motor carriers; setting forth fuel surcharge rates for charter limousine carriers; adding language defining when a taxicab driver is on duty and working his shift; clarifying operating authority of charter buses; setting forth application requirements for temporary and emergency operating authority; adding to the requirements for charter limousine drivers; modifying the percentage tour operators may pay as commissions or referral fees; requiring taxicab drivers to time-stamp trip sheets; adding to the requirements for taxicab drivers; clarifying that required lease provisions must appear in taxicab leases and must be complied with by the parties; clarifying that a time-stamped trip sheet must be in the possession of a taxicab driver during his shift; requiring taxicab drivers to maintain valid medical certifications in their possession while on duty; 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. In addition to the rates outlined in his tariff on file with the Nevada Transportation Authority, a carrier authorized to provide charter service by limousine may charge and collect from his passengers a fuel surcharge as outlined in this section.

2. The fuel surcharge will be added on an hourly basis in accordance with the following fuel surcharge table:

<i>Fuel Price:</i>	<i>Surcharge:</i>
<i>\$2.65-2.99</i>	<i>\$3.00</i>
<i>\$3.00-3.49</i>	<i>\$4.00</i>
<i>\$3.50-3.99</i>	<i>\$5.00</i>
<i>\$4.00-4.49</i>	<i>\$6.00</i>
<i>\$4.50-4.99</i>	<i>\$7.00</i>
<i>\$5.00-5.49</i>	<i>\$8.00</i>

<i>Fuel Price:</i>	<i>Surcharge:</i>
<i>\$5.50-5.99</i>	<i>\$9.00</i>
<i>\$6.00-6.49</i>	<i>\$10.00</i>
<i>\$6.50-6.99</i>	<i>\$11.00</i>
<i>\$7.00-7.49</i>	<i>\$12.00</i>
<i>\$7.50-7.99</i>	<i>\$13.00</i>
<i>\$8.00-</i>	<i>\$14.00</i>

3. The amount of the fuel surcharge will be determined as follows:

(a) On the twenty-fifth day of each calendar month, the retail price per gallon of regular fuel will be determined by referring to the United States Department of Energy, Energy Information Administration’s survey on Weekly Retail Gasoline and Diesel Prices, Regular Grade—West Coast (PADD 5).

(b) On the twenty-fifth day of each calendar month, the retail price per gallon of diesel fuel will be determined by referring to the United States Department of Energy, Energy Information Administration’s survey on Weekly Retail Gasoline and Diesel Prices, Diesel, All Types—West Coast (PADD 5).

(c) The prices can be obtained by calling the Department of Energy Fuel Hotline at (202) 586-8800 or via the Department of Energy website at <http://eia.doe.gov/>.

(d) If the twenty-fifth day of the calendar month is a weekend or a federal holiday and is the date of publication of the survey, then the price will be determined based on the price available on the following business day.

(e) The fuel price on the twenty-fifth of each calendar month will determine the fuel surcharge amount, pursuant to the table set forth in subsection 2 of this section, which will be applicable on the first day of the following month and remain in effect through the last day of that calendar month.

4. A charter limousine carrier intending to collect the fuel surcharge shall include the fuel surcharge table and rules as forth in subsections 2 and 3 of this section in his tariff on file with the Authority.

Sec. 2. Chapter 706 of NAC is hereby amended by adding thereto a new section to read as follows:

A driver of a taxicab who is operating a taxicab shall be deemed on duty and working his shift and is subject to the provisions of NRS 706 and to the regulations adopted thereunder.

Sec. 3. NAC 706.034 is hereby amended to read as follows:

706.034 1. “Charter service by bus” means the prearranged transportation of persons who have acquired the exclusive use of a bus for a particular itinerary under a single contract and at a fixed charge for the bus, which is consistent with the tariff filed by the carrier, for the duration of the charter.

2. Except as otherwise provided in paragraph (d) of subsection 3, the term includes services sold to a broker at an hourly rate only, for resale by the broker in combination with other services or facilities not related to transportation at per capita rates or at hourly rates, as necessary. *“In combination with other services and facilities not related to transportation” means transportation resold by a purchaser or broker of transportation services for purposes of transporting passengers for a particular itinerary between definite points of origin and destination under a single contract to a location where services or facilities other than or unrelated to the transportation is provided by the purchaser or broker for its benefit or for the benefit of a third party, including, but not limited to, malls, employee shuttles, or other similar purposes or locations.*

3. 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 the group of passengers being transported.

Sec. 4. NAC 706.1375 is hereby amended to read as follows:

706.1375 Except as otherwise required in NAC 706.1376 and 706.1377:

1. An application for:

(a) The initial issuance, expansion or modification of a certificate of public convenience and necessity made pursuant to NRS 706.386 to 706.411, inclusive;

(b) A permit to act as a contract carrier made pursuant to NRS 706.421 to 706.436, inclusive; or

(c) The sale and transfer of an interest in:

(1) A certificate;

(2) Fifteen percent or more of the stock of a corporation that holds a certificate;

(3) A partnership that holds a certificate; or

(4) A corporate entity that holds a certificate which would result in a change in the corporate control of the carrier,

□ must, in addition to complying with the provisions of NAC 706.010 to 706.4019, inclusive, that are applicable to pleadings, contain the data set forth in subsection 2.

2. An application described in subsection 1 must contain the following data, either in the application or as exhibits attached thereto:

(a) The type of service, if any, presently being performed by the applicant, a general description of the service and a reference to the authority pursuant to which the service is being performed.

(b) The type of service proposed, a general description of the service and a reference to the authority pursuant to which the service is to be performed.

(c) The specific authority requested and the statutory provision pursuant to which the certificate is requested.

(d) If the applicant proposes to be a carrier of household goods, a description of the types of household goods proposed to be transported.

(e) The geographical area proposed to be served pursuant to the certificate, including, without limitation, the terminal and other points to be served, the number and location of points where equipment will be located, and a concise, narrative description of the proposed route.

(f) A map or sketch of the route and points to be served, drawn to a suitable scale which is indicated on the map or sketch. The map or sketch must show present and proposed operations by distinctive coloring or marking.

(g) If the applicant proposes to be a contract carrier, a copy of each proposed contract.

(h) A statement of the rates or fares proposed to be charged and the rules governing service in the form of a tariff prepared pursuant to NAC 706.138 to 706.139, inclusive.

(i) The type and number of units of equipment to be used in the proposed service and a statement as to which units of equipment are owned by the applicant that includes, without limitation, photographs of the equipment to be used and a copy of the registration and title of each vehicle currently owned by the applicant which will be used under its operating authority. If

the applicant proposes to operate a taxicab service, the application must include the proposed color scheme of the vehicles that will be used to provide the taxicab service.

(j) A statement indicating the frequency of the proposed service. If on-call service is proposed, the application must set forth the conditions under which the service would be performed.

(k) A statement of the qualifications and experience of the personnel who will manage and operate the proposed service and the proposed operating procedures related to service, safety, maintenance, training of drivers, billing, relations with customers and the keeping of records.

(l) A statement describing the facilities which will be used to provide the proposed service, such as terminals, shops, warehouses or offices.

(m) Facts showing that the proposed operation is or will be beneficial to the traveling public.

(n) If the applicant is a corporation or limited-liability company, a copy of its articles of incorporation or articles of organization, certified by the Secretary of State, and all effective amendments thereto. If the corporation or limited-liability company was incorporated or established in another state, the application must include:

(1) A copy of the certificate issued by the Office of the Secretary of State authorizing the corporation or limited-liability company to transact its business in the State of Nevada; or

(2) Its equivalent, as provided in NRS 80.120.

(o) If the applicant is a partnership, a copy of the partnership agreement and any amendments made thereto.

(p) If the applicant is not a natural person, a list of all owners, including associated stock certificates, membership certificates or associated documents, along with the percentage of ownership of each partner, member or owner. If the applicant is a publicly traded corporation, the application may include a copy of Form 10-K, or its equivalent, filed by the corporation with the Securities and Exchange Commission that shows the controlling ownership, officers and directors in lieu of the list of all owners, including associated stock certificates, membership certificates or associated documents.

(q) Evidence that the applicant is financially able to operate the proposed business, including, without limitation:

(1) A statement of income for the 12-month period immediately preceding the application.

(2) A pro forma statement of income for the first 12-month period, presented in a monthly basis format, of the proposed operation using the proposed rates. The Authority may require, as a condition to the granting of the application, that the applicant is prohibited from placing into service more vehicles than the vehicles projected in the pro forma statement for any period that the Authority deems necessary to ensure that the granting of the application will not unreasonably and adversely affect other carriers operating in the territory.

(3) A balance sheet which was prepared not more than 6 months before the date of the application which:

I. For a sole proprietorship or partnership, must reflect the personal and business operations of the sole proprietor or each general partner.

II. For a corporation, limited-liability company or partnership, must reflect the entire business operations.

(4) A list of the names and addresses of all transportation entities owned by or under the control of the applicant.

□ All financial statements must be prepared pursuant to generally accepted accounting principles, except that the personal financial statement of a sole proprietor or general partner may be prepared on the basis of estimated values.

(r) If the applicant is operating under a fictitious name, a copy of the certificate filed pursuant to chapter 602 of NRS, if applicable.

(s) Evidence that the applicant can secure the insurance required by NAC 706.191.

(t) If the applicant is proposing to transport and store household goods and effects, proof that the applicant has the ability to store such goods and effects in a warehouse operated in accordance with the requirements of chapter 712 of NRS. As used in this paragraph, “warehouse” includes, without limitation, any structure used for the reception and storage of household goods and effects.

(u) Additional information as is necessary for a full understanding of the application.

3. An application for temporary or emergency operating authority must, in addition to complying with the provisions of NAC 706.010 to 706.4019, inclusive, that are applicable to pleadings, contain any and all information necessary for a full understanding of the application. Such information may include, but is not limited to, the information set forth in subsection 2 of this section.

4. If any item required pursuant to this section or by statute is omitted or otherwise deficient after acceptance of the application or filing, the Authority will notify the applicant of the omission or deficiency, in writing, at the address of the applicant listed on the application or filing. If the applicant does not cure the omission or deficiency within 15 working days after the

issuance of that notification, the Deputy Commissioner shall, at the next regular meeting of the Authority, move that the application or filing be dismissed.

Sec. 5. NAC 706.229 is hereby amended to read as follows:

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) *Within the three years prior to his application, has not failed to appear for a hearing before the Nevada Transportation Authority resulting in the employee being found in his absence in violation of any provision of NRS 706 or of the regulations adopted thereunder;*

(b) *Within the three years prior to his application, has five or fewer findings against him by the Nevada Transportation Authority for violations of the provisions of NRS 706 or of the regulations adopted thereunder;*

(c) *Within the three years prior to his application, has not failed to timely pay any and all fine amounts assessed against him by the Nevada Transportation Authority;*

(d) 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)~~ (e) 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)~~ (e) 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.

Sec. 6. 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 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 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 ~~[10]~~ 35 percent to a designated agent who arranges for the provision of scenic tours by the carrier. ~~[The commission or referral fee for off-road scenic tours must not exceed 25 percent of the rate, fare or charge specified in the tariffs of the carrier for the scenic tour that the designated agent has arranged for the carrier to provide.]~~

Sec. 7. NAC 706.3747 is hereby amended to read as follows:

706.3747 1. Except as otherwise provided in this subsection, a certificate holder shall require the driver of each taxicab that the certificate holder is authorized to operate to keep a daily trip sheet in a form prescribed by the Authority. The daily trip sheet may be kept in a different form if the certificate holder submits the alternative form to the Authority and the Authority approves that form.

2. A driver shall record on the trip sheet:

(a) At the beginning of each shift:

(1) His name;

(2) The unit number of his taxicab;

(3) *A time stamp in accordance with NAC 706.3761 indicating* ~~[T]~~ *he time at which the shift began; and*

(4) The odometer reading of the taxicab.

(b) During each shift:

(1) The time, place of origin, requested destination and actual destination, if different from the requested destination, of each trip; and

(2) The number of passengers and amount of fare for each trip.

(c) At the end of each shift:

(1) *A time stamp in accordance with NAC 706.3761 indicating* ~~the~~ the time at which his shift ended; and

(2) The odometer reading of the taxicab.

3. A certificate holder shall furnish a trip sheet form for each shift during which a taxicab is operated by a driver.

4. A driver who works for the certificate holder on commission or as an employee shall submit to the certificate holder a completed trip sheet at the end of each shift of that driver.

5. A driver who is an independent contractor shall submit to the certificate holder at the end of each week in which he worked at least one shift a completed trip sheet for each shift worked by that driver during that week.

6. A certificate holder shall retain each completed trip sheet until the end of the calendar year of the year immediately succeeding the year in which the trip sheet was completed. The certificate holder shall make such trip sheets available for inspection by the Authority upon request.

7. If the Authority determines that a taxicab is being operated without a trip sheet in violation of this section, the Authority will cause the taxicab in regard to which the violation occurred to be withdrawn from service for a minimum of 24 hours. A taxicab withdrawn from service pursuant to this subsection must not be placed back in service until the Authority verifies that the certificate holder has furnished a trip sheet for that taxicab.

Sec. 8. NAC 706.3751 is hereby amended to read as follows:

706.3751 1. In addition to the applicable requirements set forth in 49 C.F.R. §§ 391.51, 392.2, 392.4, 392.5 and 392.9 and 49 C.F.R. Parts 390, 393 and 397, a certificate holder

shall not allow an employee or independent contractor of the certificate holder to drive a taxicab that the certificate holder is authorized to operate unless the employee or independent contractor:

(a) *Within the three years prior to his application, has not failed to appear for a hearing before the Nevada Transportation Authority resulting in the employee being found in his absence in violation of any provision of NRS 706 or of the regulations adopted thereunder;*

(b) *Within the three years prior to his application, has five or fewer findings against him by the Nevada Transportation Authority for violations of the provisions of NRS 706 or of the regulations adopted thereunder;*

(c) *Within the three years prior to his application, has not failed to timely pay any and all fine amounts assessed against him by the Nevada Transportation Authority;*

(d) Is at least 21 years of age and has held for at least 30 days a valid Nevada driver's license or is a border state employee, as that term is defined in NRS 483.035; and

~~(b)~~ (e) 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 taxicab or the independent contractor begins to lease a taxicab from the certificate holder pursuant to NRS 706.473:

(1) A certificate from a licensed physician which is dated not more than 90 days before the date on which the employee becomes employed by the certificate holder as the driver of a taxicab or the independent contractor begins to lease a taxicab from the certificate holder pursuant to NRS 706.473, which demonstrates that the employee or independent contractor 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 or independent contractor which is obtained from the Department and which demonstrates that the employee or independent

contractor has not, within the 3 years immediately preceding the date on which the employee becomes employed by the certificate holder as the driver of a taxicab or the independent contractor begins to lease a taxicab from the certificate holder pursuant to NRS 706.473:

(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 or independent contractor shall update annually the documents required pursuant to paragraph ~~(b)~~ (e) of subsection 1 and submit the updated documents to the certificate holder.

3. A certificate holder shall retain a copy of each document that the employee or independent contractor submitted to the certificate holder pursuant to this section until 3 years after the employee's employment has terminated or the independent contractor's lease has expired.

Sec. 9. NAC 706.3753 is hereby amended to read as follows:

706.3753 1. Each lease agreement entered into by a certificate holder and an independent contractor pursuant to NRS 706.473 must:

(a) Be maintained by the certificate holder.

(b) Be in writing and in a form approved by the Authority.

(c) Identify the use to be made of the taxicab by the independent contractor and the consideration to be received by the certificate holder. The use to be made of the taxicab must conform to the authority granted by the certificate to operate the taxicab.

(d) Be signed by each party, or his representative, to the agreement.

(e) Specifically state that the independent contractor is subject to all laws and regulations relating to the operation of a taxicab which have been established by the Authority and other regulatory agencies and that a violation of those laws and regulations will breach the agreement.

(f) Specifically state that the certificate holder is responsible for maintaining:

(1) All required insurance associated with the taxicab and the service which is the subject of the agreement in accordance with NAC 706.191;

(2) A file which contains the qualifications of the independent contractor to drive the taxicab; and

(3) A file for records concerning the maintenance of the taxicab.

(g) Specifically state that the lease agreement does not relieve the certificate holder from any of his duties or responsibilities set forth in this chapter and chapter 706 of NRS.

(h) Specifically state that the taxicab provided pursuant to the lease agreement:

(1) Will be painted with the name, insigne and certificate number of the certificate holder; and

(2) Is in a good mechanical condition that will meet the requirements for operating taxicabs set forth by this State or the county or municipality in which the taxicab will be operated.

(i) Specifically state that the independent contractor shall not transfer, assign, sublease or otherwise enter into an agreement to lease the taxicab to another person.

(j) Specifically state that the independent contractor:

(1) Shall not operate the taxicab for more than 12 hours in any 24-hour period; and

(2) Shall return the taxicab to the certificate holder at the end of each shift to enable the certificate holder to comply with the provisions of NAC 706.380.

(k) Contain any other provision which the Authority may determine to be necessary for the protection of the health and safety of members of the public.

2. If the Authority has reason to believe that a *required lease* provision of this section is being violated, the Authority may, after a hearing:

(a) Impose an administrative fine pursuant to NRS 706.771;

(b) Order the certificate holder or the independent contractor to cease and desist from action taken in violation of this section; or

(c) Revoke or suspend the authority of the certificate holder to operate a taxicab to enter into a lease agreement pursuant to NRS 706.473.

Sec. 10. NAC 706.376 is hereby amended to read as follows:

706.376 During his shift, a driver of a taxicab:

1. Shall not engage in verbal arguments or acts of physical violence.
2. Shall refrain from backing into position in any taxicab stand.
3. Shall refrain from loading passengers at any establishment where a taxicab stand has been established unless he has been through the rotation of the stand. This provision does not apply when there are no taxicabs on the stand.
4. Shall not allow more than two passengers in the front seat of his taxicab and shall not allow more than five passengers in his taxicab at any one time.
5. Shall not knowingly operate a taxicab equipped with a faulty or inaccurate taximeter or a taximeter that shows signs of having been tampered with.
6. Shall not operate a taxicab in which the taximeter is not sufficiently illuminated or the face of the taximeter is obscured to the extent that the entire fare recording device cannot be easily seen by the passenger.

7. Shall not operate a taxicab in which the taximeter does not have a properly attached seal as affixed by the Authority.

8. Shall not operate a taxicab that does not have properly affixed a valid “TX” plate as issued by the Authority.

9. Shall not operate a taxicab if the driver is suffering from any illness or physical or mental disorder that may impair his ability to operate a taxicab safely.

10. Shall not operate a taxicab while taking drugs that may impair his ability to operate a taxicab safely.

11. Shall keep a complete and accurate trip sheet as prescribed in NAC 706.3747 *in his possession*.

12. Shall not display or distribute any advertising within or on his taxicab that has not been authorized by his employer.

13. Shall not operate a taxicab without having in his possession a valid certificate from a licensed physician which demonstrates that he is physically qualified to operate a taxicab or commercial motor vehicle in accordance with 49 C.F.R. § 391.43 as adopted by NAC 706.247.