

ASSEMBLY BILL NO. 171—ASSEMBLYMEN HETTRICK, ANGLE,
SHERER, CHRISTENSEN, CLABORN, GOICOECHEA, HOGAN,
HOLCOMB, MARVEL, MCCLEARY, MORTENSON, MUNFORD,
PARKS AND WEBER

MARCH 4, 2005

JOINT SPONSORS: SENATORS BEERS, AMODEI AND CEGAVSKE

Referred to Committee on Transportation

SUMMARY—Revises various provisions governing regulation of
common and contract motor carriers in this State.
(BDR 58-56)

FISCAL NOTE: Effect on Local Government: Increases or Newly
Provides for Term of Imprisonment in County or City
Jail or Detention Facility.
Effect on the State: No.

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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 transportation; requiring common and contract
motor carriers to perform routine inspections of their
vehicles; making various changes to provisions governing
the supervision and regulation of carriers, drivers and
brokers; revising provisions governing access to public
transportation by persons with disabilities and service
animals; making changes to the provisions governing
leases of taxicabs to independent contractors by certain
holders of certificates of public convenience and
necessity; providing a penalty; and providing other
matters properly relating thereto.

Legislative Counsel's Digest:

- 1 Existing law requires the Transportation Services Authority to regulate
- 2 common motor carriers, contract motor carriers, drivers and brokers in this State.
- 3 (NRS 706.011-706.791) In addition, existing law provides that a violation of
- 4 certain provisions governing the regulation and licensing of motor carriers is a
- 5 misdemeanor. (NRS 706.756)



6 This bill requires a common motor carrier or contract motor carrier that
7 operates vehicles in passenger service, such as taxicabs or limousines, to perform
8 periodic inspections of its vehicles. In addition, this bill provides that a person who
9 operates a motor vehicle for a common or contract motor carrier engaged in
10 passenger or freight service to notify the owner or manager of a safety defect or
11 unsafe condition in the vehicle and return the vehicle for repair. This bill further
12 provides that such a vehicle must not be used until the defect or condition has been
13 corrected. A person who violates these provisions is subject to the general
14 misdemeanor penalty.

15 Existing law provides that the Transportation Services Authority may supervise
16 and regulate motor carriers and brokers and sets forth the respective responsibilities
17 of motor carriers and brokers. Motor carriers are not responsible for acts of brokers
18 and brokers are not responsible for acts of motor carriers. (NRS 706.168)

19 This bill specifically authorizes the Transportation Services Authority to
20 supervise and regulate drivers employed by a motor carrier. In addition, this bill
21 changes the responsibilities so that a motor carrier is responsible for the acts of its
22 drivers and brokers which the motor carrier directs or allows. Similarly, a broker is
23 responsible for the acts of its employees and agents which the broker directs or
24 allows.

25 Existing law prohibits a common motor carrier, contract motor carrier or any
26 other entity that provides public transportation from refusing service or the use of
27 any of its facilities to a person with a disability. (NRS 706.361) In addition, existing
28 law prohibits a common motor carrier of passengers or any other means of public
29 transportation from refusing service to a person who uses a service animal or
30 charging a fee for the service animal. (NRS 706.366)

31 This bill makes these provisions specifically applicable to a driver of a common
32 motor carrier, contract motor carrier or any other entity that provides public
33 transportation.

34 Existing law provides for the regulation of leases between holders of
35 certificates of public convenience and necessity and persons who operate taxicabs
36 as independent contractors in a county with a population of less than 400,000
37 (currently all counties other than Clark County). (NRS 706.473, 706.475)

38 This bill removes the limitation on the number of taxicabs that may be leased
39 by an independent contractor in those counties. This bill also removes the
40 requirement that the Transportation Services Authority approve a lease of a taxicab
41 to an independent contractor.

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
2 thereto a new section to read as follows:

3 *1. A common motor carrier or contract motor carrier*
4 *authorized to operate a vehicle engaged in passenger service,*
5 *including, without limitation, a taxicab, traditional limousine or*
6 *livery limousine, shall, on a regularly scheduled basis, perform a*
7 *preventative maintenance and safety inspection of the vehicle:*

8 *(a) As recommended by the maintenance specifications of the*
9 *manufacturer of the vehicle; or*

10 *(b) As required by the Authority, Department or other*
11 *appropriate governmental regulatory entity,*



1 ↪ *whichever requires more frequent maintenance and*
2 *inspections.*

3 2. *Any person, including, without limitation, a safety*
4 *inspector, service maintenance person, supervisor, manager,*
5 *owner or driver, who operates a motor vehicle for a common*
6 *motor carrier or contract motor carrier engaged in passenger or*
7 *freight service shall:*

8 (a) *Immediately report and notify the owner or manager of the*
9 *common motor carrier or contract motor carrier of a safety defect*
10 *or unsafe condition in a vehicle after becoming aware of the*
11 *defect or condition; and*

12 (b) *Return the motor vehicle to the maintenance facility for*
13 *repair as soon as practicable after becoming aware of the safety*
14 *defect or unsafe condition.*

15 3. *A common motor carrier or contract motor carrier that*
16 *receives notice of a defect or unsafe condition pursuant to*
17 *subsection 2, shall not allow the motor vehicle to be returned to*
18 *service until the defect or condition has been corrected.*

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

20 706.011 As used in NRS 706.011 to 706.791, inclusive, *and*
21 *section 1 of this act*, unless the context otherwise requires, the
22 words and terms defined in NRS 706.013 to 706.146, inclusive,
23 have the meanings ascribed to them in those sections.

24 **Sec. 3.** NRS 706.168 is hereby amended to read as follows:

25 706.168 1. The authority of the Transportation Services
26 Authority to supervise and regulate ~~motor~~ carriers , *drivers* and
27 brokers respectively, to the extent provided in this chapter, must be
28 exercised separately. A ~~motor~~ carrier is responsible only for his
29 own acts and ~~those of his employees or agents who are not~~
30 ~~brokers.] the acts of the driver or broker that were directed or~~
31 *allowed by the carrier.* A broker is responsible only for his own acts
32 and ~~those~~ *the acts* of his ~~employees or agents who are not motor~~
33 ~~carriers.] employee or agent that were directed or allowed by the~~
34 *broker.*

35 2. *The provisions of this section do not relieve a carrier from*
36 *any obligation under its certificate of public convenience and*
37 *necessity or from its duty to comply with this chapter and the*
38 *regulations adopted pursuant to this chapter.*

39 **Sec. 4.** NRS 706.361 is hereby amended to read as follows:

40 706.361 1. A person with a disability is entitled to the full
41 and equal enjoyment of the facilities of any common motor carrier
42 of passengers, contract motor carrier of passengers or other entity
43 providing a means of public conveyance and transportation
44 operating within this State.



1 2. A common motor carrier of passengers, a contract motor
2 carrier of passengers and other entities providing means of public
3 conveyance and transportation shall designate a person responsible
4 for ensuring that the carrier complies with the applicable provisions
5 of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101
6 to 12213, inclusive, and 47 U.S.C. §§ 225 and 611, and the
7 regulations adopted pursuant to that Act.

8 3. The person designated pursuant to subsection 2 shall
9 conduct training sessions for the employees of the carrier or entity.
10 Each employee must be provided at least 3 hours of training during
11 one or more training sessions. During the training sessions, the
12 designee shall:

13 (a) Describe the carrier's plan for compliance with the
14 Americans with Disabilities Act of 1990 and the regulations adopted
15 pursuant to that Act;

16 (b) Explain the obligations of the employees to assist a person
17 with a disability to store a mobility device;

18 (c) Explain the illegality of charging an additional fee or a
19 higher fare to a person with a disability; and

20 (d) Ensure that each employee is trained in accordance with the
21 requirements of 49 C.F.R. § 37.173.

22 4. It is unlawful for any person to deny any of the privileges
23 granted by subsection 1.

24 5. It is unlawful for any *driver of a common motor carrier or*
25 *for a* common motor carrier, contract motor carrier or other entity
26 providing a means of public conveyance or transportation operating
27 within this State, to ~~§~~

28 ~~—(a) Deny~~ *deny* the equal enjoyment of its services and facilities
29 to a person with a disability by the arbitrary, capricious or
30 unreasonable interference, direct or indirect, with the use of aids and
31 appliances used by a person with a disability. ~~§~~

32 ~~—(b) §~~ *6. It is unlawful for any common motor carrier, contract*
33 *motor carrier or other entity providing a means of public*
34 *conveyance or transportation operating within this State to:*

35 (a) Fail to designate a person pursuant to subsection 2; or

36 ~~§(e)~~ (b) Fail to conduct the training sessions in the manner
37 described in subsection 3.

38 ~~§6-~~ 7. As used in this section, "disability" has the meaning
39 ascribed to it in 49 C.F.R. § 37.3.

40 **Sec. 5.** NRS 706.366 is hereby amended to read as follows:

41 706.366 1. It is unlawful for *a driver employed by* a common
42 motor carrier of passengers or other means of public conveyance or
43 transportation operating in this State to:

44 (a) Refuse service to a person with a visual, aural or physical
45 disability because he is accompanied by a service animal;



1 (b) Refuse service to a person who is training a service animal
2 because he is accompanied by the service animal; or

3 (c) Charge an additional fee for a service animal.

4 2. This section does not relieve a person with a visual, aural or
5 physical disability who is accompanied by a service animal or a
6 person who trains a service animal from liability for damage which
7 may be caused by the service animal.

8 3. Persons with visual, aural or physical disabilities
9 accompanied by service animals on common motor carriers of
10 passengers or other means of public conveyance or transportation
11 operating in this State are subject to the same conditions and
12 limitations that apply to persons without disabilities who are not so
13 accompanied.

14 4. As used in this section, "service animal" has the meaning
15 ascribed to it in NRS 426.097.

16 **Sec. 6.** NRS 706.473 is hereby amended to read as follows:

17 706.473 1. In a county whose population is less than
18 400,000, a person who holds a certificate of public convenience and
19 necessity which was issued for the operation of a taxicab business
20 may ~~[, upon approval from the Authority,]~~ lease a taxicab to an
21 independent contractor who does not hold a certificate of public
22 convenience and necessity. ~~[A person may lease only one taxicab to~~
23 ~~each independent contractor with whom he enters into a lease~~
24 ~~agreement.]~~ The taxicab may be used only in a manner authorized
25 by the lessor's certificate of public convenience and necessity.

26 2. ~~[A person who enters into a lease agreement with an~~
27 ~~independent contractor pursuant to this section shall submit a copy~~
28 ~~of the agreement to the Authority for its approval. The agreement is~~
29 ~~not effective until approved by the Authority.]~~

30 ~~—3.— A person who leases a taxicab to an independent contractor~~
31 ~~is jointly and severally liable with the independent contractor for~~
32 ~~any violation of the provisions of this chapter or the regulations~~
33 ~~adopted pursuant thereto, and shall ensure that the independent~~
34 ~~contractor complies with such provisions and regulations.]~~

35 ~~—4.— The Authority or any of its employees may intervene in a~~
36 ~~civil action involving a lease agreement entered into pursuant to this~~
37 ~~section.] An agreement to lease a taxicab to an independent~~
38 ~~contractor pursuant to this section must:~~

39 (a) *Be in writing;*

40 (b) *Be signed by each party to the lease or his authorized*
41 *representative; and*

42 (c) *State the initial term of the lease and the renewal periods, if*
43 *any.*

44 3. *For the purposes of this section, a determination letter*
45 *from the Internal Revenue Service stating that a driver operating a*



1 *taxicab pursuant to this section is an independent contractor is*
2 *prima facie evidence that the driver is an independent contractor.*

3 **Sec. 7.** NRS 706.475 is hereby amended to read as follows:

4 706.475 1. The Authority shall adopt such regulations as are
5 necessary to:

6 (a) Carry out the provisions of NRS 706.473; and

7 (b) Ensure that the taxicab business remains safe, adequate and
8 reliable.

9 2. Such regulations must include, without limitation:

10 (a) The minimum qualifications for an independent contractor;

11 (b) Requirements related to liability insurance; *and*

12 (c) Minimum safety standards . ~~}; and~~

13 ~~— (d) The procedure for approving a lease agreement and the~~
14 ~~provisions that must be included in a lease agreement concerning~~
15 ~~the grounds for the revocation of such approval.]~~

16 **Sec. 8.** NRS 706.756 is hereby amended to read as follows:

17 706.756 1. Except as otherwise provided in subsection 2, any
18 person who:

19 (a) Operates a vehicle or causes it to be operated in any carriage
20 to which the provisions of NRS 706.011 to 706.861, inclusive, *and*
21 *section 1 of this act* apply without first obtaining a certificate,
22 permit or license, or in violation of the terms thereof;

23 (b) Fails to make any return or report required by the provisions
24 of NRS 706.011 to 706.861, inclusive, *and section 1 of this act* or
25 by the Authority or the Department pursuant to the provisions of
26 NRS 706.011 to 706.861, inclusive ~~};~~, *and section 1 of this act;*

27 (c) Violates, or procures, aids or abets the violating of, any
28 provision of NRS 706.011 to 706.861, inclusive ~~};~~, *and section 1*
29 *of this act;*

30 (d) Fails to obey any order, decision or regulation of the
31 Authority or the Department;

32 (e) Procures, aids or abets any person in his failure to obey such
33 an order, decision or regulation of the Authority or the Department;

34 (f) Advertises, solicits, proffers bids or otherwise holds himself
35 out to perform transportation as a common or contract carrier in
36 violation of any of the provisions of NRS 706.011 to 706.861,
37 inclusive ~~};~~, *and section 1 of this act;*

38 (g) Advertises as providing:

39 (1) The services of a fully regulated carrier; or

40 (2) Towing services,

41 ↪ without including the number of his certificate of public
42 convenience and necessity or contract carrier's permit in each
43 advertisement;



1 (h) Knowingly offers, gives, solicits or accepts any rebate,
2 concession or discrimination in violation of the provisions of this
3 chapter;

4 (i) Knowingly, willfully and fraudulently seeks to evade or
5 defeat the purposes of this chapter;

6 (j) Operates or causes to be operated a vehicle which does not
7 have the proper identifying device;

8 (k) Displays or causes or permits to be displayed a certificate,
9 permit, license or identifying device, knowing it to be fictitious or to
10 have been cancelled, revoked, suspended or altered;

11 (l) Lends or knowingly permits the use of by one not entitled
12 thereto any certificate, permit, license or identifying device issued to
13 the person so lending or permitting the use thereof; or

14 (m) Refuses or fails to surrender to the Authority or Department
15 any certificate, permit, license or identifying device which has been
16 suspended, cancelled or revoked pursuant to the provisions of this
17 chapter,

18 ➤ is guilty of a misdemeanor, and upon conviction thereof shall be
19 punished by a fine of not less than \$100 nor more than \$1,000, or by
20 imprisonment in the county jail for not more than 6 months, or by
21 both fine and imprisonment.

22 2. Any person who, in violation of the provisions of NRS
23 706.386, operates as a fully regulated common motor carrier without
24 first obtaining a certificate of public convenience and necessity or
25 any person who, in violation of the provisions of NRS 706.421,
26 operates as a contract motor carrier without first obtaining a permit
27 is guilty of a misdemeanor and shall be punished:

28 (a) For a first offense within a period of 12 consecutive months,
29 by a fine of not less than \$500 nor more than \$1,000. In addition to
30 the fine, the person may be punished by imprisonment in the county
31 jail for not more than 6 months.

32 (b) For a second offense within a period of 12 consecutive
33 months and for each subsequent offense that is committed within a
34 period of 12 consecutive months of any prior offense under this
35 subsection, by a fine of \$1,000. In addition to the fine, the person
36 may be punished by imprisonment in the county jail for not more
37 than 6 months.

38 3. Any person who, in violation of the provisions of NRS
39 706.386, operates or permits the operation of a vehicle in passenger
40 service without first obtaining a certificate of public convenience
41 and necessity is guilty of a gross misdemeanor.

42 4. If a law enforcement officer witnesses a violation of any
43 provision of subsection 2 or 3, the law enforcement officer may
44 cause the vehicle to be towed immediately from the scene and
45 impounded in accordance with NRS 706.476.



- 1 5. The fines provided in this section are mandatory and must
- 2 not be reduced under any circumstances by the court.
- 3 6. Any bail allowed must not be less than the appropriate fine
- 4 provided for by this section.

