

**ADOPTED REGULATION OF THE
NEVADA TRANSPORTATION AUTHORITY**

LCB File No. R061-13

Effective January 16, 2015

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 and 706.321; §6, NRS 706.171, 706.173 and 706.475.

A REGULATION relating to motor carriers; revising the definitions of “bus” and “livery limousine”; revising certain provisions regarding the solicitation of passengers by a common motor carrier of passengers or his or her employee; authorizing a designated agent who arranges transportation service through an electronic ride hailing system to charge and collect certain fees; revising provisions relating to fuel surcharges assessed by charter limousine operators; revising provisions governing the period during which certain motor vehicles may be placed in service as taxicabs; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Sections 1 and 2 of this regulation revise the definitions of “bus” and “livery limousine,” respectively, for the purposes of provisions of chapter 706 of NAC governing the operation of certain motor carriers regulated by the Nevada Transportation Authority.

Section 3 of this regulation limits only to a common motor carrier of passenger or his or her employee the applicability of certain existing restrictions regarding the solicitation of passengers by a fully regulated carrier or his or her employee. (NAC 706.228)

Section 4 of this regulation authorizes a designated agent who arranges transportation services through an electronic ride hailing system to charge and collect directly from passengers a system access and payment fee, the amount of which cannot exceed the amount of the fee prescribed by order of the Authority. (NAC 706.311)

Section 5 of this regulation revises provisions relating to the fuel surcharges which may be imposed by a charter limousine service to provide that the fuel surcharge must include a minimum charge for 1 hour, but that subsequent fuel surcharges may be charged in one-half hour increments.

Existing regulations place limitations on the period during which a motor vehicle may be operated as a taxicab. Existing regulations also require that, in a county whose population is 100,000 or more but less than 700,000 (currently Washoe County only), each vehicle which a

certificate holder places into service as a taxicab for the first time must be new or have been driven less than 50,000 miles. (NAC 706.3745) **Section 6** of this regulation exempts from this requirement a certificate holder whose authority to operate is limited to areas of the county outside of the city limits of any city with a population of 60,000 or more. **Section 6** also provides that a hybrid electric vehicle which is placed into service as a taxicab may be operated as a taxicab for an additional period of 24 months beyond the period specified for other motor vehicles.

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

706.022 “Bus” means any motor vehicle *that was* originally manufactured *and is currently configured* 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.

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 originally manufactured as having ~~+~~:

1. A capacity of 9 or more persons but less than 16 persons, including the driver ~~+~~; or
2. *A capacity of 16 or more persons, including the driver, but is currently configured with a capacity of less than 16 persons, including the driver.*

Sec. 3. NAC 706.228 is hereby amended to read as follows:

706.228 1. A certificate holder who is a ~~fully regulated~~ *common motor* carrier *of passengers* or his or her employee shall not solicit passengers.

2. A certificate holder or his or her employee may:

(a) Answer questions posed by a potential passenger if the conversation is initiated by the potential passenger;

(b) Advertise on the side of a vehicle or on permanently located signs;

(c) Provide brochures in permanently mounted racks or stands;

(d) Establish booths in airports, hotels or other locations;

(e) Advertise in the media or through direct mailing;

(f) Conduct any other marketing activity which has been determined not to be solicitation by the Authority; or

(g) When engaged in the business of transferring persons from an airport, greet potential passengers using one of the following phrases:

(1) “May I help you?”

(2) “Good morning.”

(3) “Good afternoon.”

(4) “Good evening.”

3. While on duty at any passenger curb loading zone, a certificate holder who is ~~authorized to provide charter service by limousine or special services,~~ *a common motor carrier of passengers*, or an employee of the certificate holder, shall hold up or display a sign which is visible to the public that:

(a) Must be not more than 18 by 24 inches in size;

(b) Contains the company name, the “CPCN” number and the words “For Hire”; and

(c) Contains the approved rates for the vehicle in letters not less than 2 inches in height in sharply contrasting colors which are legible from a distance of at least 50 feet,

↪ unless the certificate holder or employee is waiting for a passenger who has arranged for the transportation by reservation or is seeking a specific passenger who has requested that the vehicle be dispatched to the location.

4. While on duty, a certificate holder who is a ~~fully regulated~~ *common motor carrier of passengers* or his or her employee shall not stand a vehicle or park a vehicle within 50 feet of a designated taxicab stand unless:

(a) The taxicab stand is located at an airport owned by a governmental entity; or

(b) The Chair or his or her designee has authorized the certificate holder to stop or park the vehicle within 50 feet of the designated taxicab stand.

5. While on duty, a certificate holder who is a ~~fully regulated~~ *common motor* carrier *of passengers* or his or her employee shall not stand within 50 feet of a designated taxicab stand unless:

(a) The taxicab stand is located at an airport owned by a governmental entity; or

(b) The Chair or his or her designee has authorized the certificate holder to stop or park within 50 feet of the designated taxicab stand.

6. As used in this section:

(a) "Passenger curb loading zone" has the meaning ascribed to it in NRS 484B.033.

(b) "Solicit" includes, without limitation, inducing or attempting to induce persons by communication or other action to be transported. The term includes, without limitation:

(1) Except as otherwise provided in subsection 2, initiating conversation with potential passengers;

(2) Shouting information;

(3) Waving signs;

(4) Waving arms or hands;

(5) Flashing lights;

(6) Ringing bells;

(7) Blowing horns;

(8) Blocking access to other motor carriers; or

(9) Except as otherwise provided in subsections 2 and 3, any other activity designed to attract passengers,

↳ unless the passenger has arranged for the transportation by reservation or the driver is seeking a specific passenger who has requested that the driver's vehicle be dispatched to the location.

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 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** *Except as otherwise provided in subsection 7, 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~~ *Except as otherwise provided in subsection 7, 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.

7. In addition to each commission and referral fee authorized by subsections 2 to 6, inclusive, a designated agent who arranges transportation services through an electronic ride hailing system may charge and collect directly from a passenger a system access and payment fee. The amount of any fee charged and collected pursuant to this subsection must not exceed the amount prescribed by order of the Authority.

Sec. 5. NAC 706.3555 is hereby amended to read as follows:

706.3555 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).

~~4.4~~ 5. The fuel prices described in paragraphs (a) and (b) of subsection ~~4.3~~ 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.

~~4.5~~ 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.

Sec. 6. NAC 706.3745 is hereby amended to read as follows:

706.3745 1. In addition to the requirements set forth in NAC 706.379, *and except as otherwise provided in subsection 2*, 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. ~~111~~ *The provisions of subsection 1 do not apply to a certificate holder that is authorized to operate taxicabs only in areas within the county which are located outside of the city limits of any city whose population is 60,000 or more.*

3. *Except as otherwise provided in subsection 7, 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.

~~13. 111~~

4. *Except as otherwise provided in subsection 7, 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~~ 60 months after the date on which the vehicle was placed into service.

~~14. 5.~~ 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.

~~15.1~~ 6. If a certificate holder places into service as a taxicab a vehicle that has been granted an exemption pursuant to subsection ~~4.1~~ 5, 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.

~~16.1~~ 7. *If a hybrid electric vehicle, as that term is defined in 40 C.F.R. § 86.1702-99, is acquired for use as a taxicab by a certificate holder, the period described in subsection 3 or 4 during which the hybrid electric vehicle may be operated as a taxicab is extended for an additional period of 24 months.*

8. 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.

**LEGISLATIVE REVIEW OF ADOPTED REGULATION AS REQUIRED BY
NRS 233B.066**

LCB FILE R061-13

The following statement is submitted for adoption, amendment, and/or repeal of regulations pertaining to Nevada Administrative Code chapter 706.

1. A clear and concise explanation of the need for the adopted regulation.

LCB File R061-13 amends the definitions of “bus” and “livery limousine” in order to update regulations to apply to certain new types of vehicles. At the request of industry members, the Authority has expanded the applicability of certain restrictions regarding the solicitation of passengers. Additionally, the Authority proposes to permit a designated agent who arranges transportation through an “electronic ride hailing system” to charge and collect direct from customers a system access and payment fee in an amount not to exceed that as prescribed by order of the Authority. The regulation file also permits carriers providing charter limousine service may charge fuel surcharges in increments of one-half hour following the first hour of service. Lastly, the regulation proposes to increase the length of time a vehicle may be put into service to serve as a taxicab (currently in Washoe County only) and exempts from this requirement a certificate holder whose authority to operate is limited to areas of the county outside the city limits of any city that has a population of 60,000 or more.

2. A description of how public comment was solicited, a summary of public response, and an explanation of how other interested persons may obtain a copy of the summary.

Copies of the notices of workshop to solicit comments and the notices of intent to act upon the proposed regulations were sent by U.S. mail, electronic mail, or via facsimile to all persons on the Authority’s mailing list for administrative rulemaking and to all passenger motor carriers licensed by the Authority. Copies of the notices were also posted at all county libraries in Nevada, at the offices of the Authority, on the Authority’s website, on the Nevada State Legislature’s website, and at the following locations:

Clark County Court House
200 Lewis Ave.
Las Vegas, NV 89155

Department of Business & Industry
555 E. Washington Blvd., Suite #4900
Las Vegas, NV 89101

Department of Business & Industry
1830 College Parkway, Suite #100
Carson City, NV 89706

Nevada State Library & Archives
100 N. Stewart St.
Carson City, NV 89701

Washoe County Court House
75 Court St.
Reno, NV 89501

Copies of all materials relating to the proposal were made available at the offices of the Authority, on the Authority's website at www.nta.nv.gov, at the Nevada State Library, 100 North Stewart St., Carson City, NV, and at the main public library in all counties in which an office of the Authority is not maintained. Copies of the notices and text of the proposed regulation were mailed to members of the public upon request.

Workshops were held on September 24, 2013; February 28, 2014; and, August 14, 2014. On September 30, 2014, the Authority issued a Notice of Intent to Act Upon a Regulation. A public hearing was held on November 5, 2014. It was then discovered the Authority took action prematurely in adopting the regulation because it did not post the LCB official revised version for a minimum of 30 days. Thus, on November 19, 2014, the Authority again issued a Notice of Intent to Act Upon a Regulation. A public hearing was held on December 22, 2014. The minutes of the workshop and the adoption hearings, attached hereto, contain summaries of the discussions held regarding the proposed amendments.

A copy of this summary of the public response to the proposed regulation may be obtained from the Authority, 2290 South Jones Boulevard, Suite #110, Las Vegas, NV 89146, (702) 486-3303.

3. The number of persons who:

- a. Attended each workshop/hearing:** September 24, 2013 — 54; February 28, 2014 — 47; August 14, 2014 — 51; November 5, 2014 — 17; December 22, 2014 — 7
- b. Testified at each workshop/hearing:** September 24, 2013 — 13; February 28, 2013 — 10; August 14, 2014 — 11; November 5, 2014 — 5; December 22, 2014 — 1
- c. Submitted to the agency written comments:** 6.

4. For each person identified in paragraphs (b) and (c) of number 1 above, the following information if provided to agency conducting the hearing:

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5. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation of how other interested persons may obtain a copy of the summary.

Comments were solicited from affected businesses in the same manner as they were solicited from the public. The summary may be obtained in the response to question #2 above.

6. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reason for adopting the regulation without change.

Not applicable. Over the course of the rulemaking process as a result of the three workshops, there were significant modifications. At the adoption hearings, there were no proposed/suggested changes to the final version considered by the Authority.

7. The estimated economic effect of the adopted regulation on the businesses which it is to regulate and on the public. These must be stated separately and each case must include:

- a. Both adverse and beneficial effects; and**
- b. Both immediate and long-term effects**

The proposed regulations will have no significant adverse impact upon the regulated industry, either immediately or long-term. However, there will be beneficial economic impacts upon the regulated industry both immediately and in the long-term. The beneficial economic impacts are as follows:

- Section 4 of the regulatory docket, permitting agents who arrange transportation services through an electronic ride hailing system to charge a system access fee, will result in an additional immediate – and long-term - revenue stream to said agents in addition to the currently permissible commission or referral fee of ten percent. The system access fee will undoubtedly grow the burgeoning e-hailing market.

- Section 6 of the regulatory docket will have several beneficial impacts upon taxicab operators in Washoe County. By permitting carriers to operate their vehicles for a longer period of time, costly vehicle replacement costs will be reduced. Additionally, the new provision found in subsection 2 will permit carriers operating in the north Lake Tahoe area to utilize their vehicles for a longer period of time. Perhaps more importantly, the provision will grow the taxicab market in this area because operational costs which can oftentimes serve as a barrier to entry will be reduced. Lastly, carriers who in the past have desired to operate hybrid electric vehicles but found the costs of said vehicles to be prohibitive, will be able to operate those vehicles for an additional 24 months, thus making this type of significant asset purchase more affordable over the long-term.

8. The estimated cost to the agency for enforcement of the adopted regulation.

There is no additional cost to the Authority for enforcement, specifically due to this regulation.

9. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates federal regulation, the name of the regulating federal agency.

There are not any regulations of other state or government agencies which the proposed regulation overlaps or duplicates.

10. If the regulation includes provisions that are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.

Not applicable.

11. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

Not applicable.

12. Is the proposed regulation likely to impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small business? What methods did the agency use in determining the impact of the regulation on a small business?

The Authority has determined that the proposed regulations do not impose a direct and significant economic burden upon small business or restrict the formation, operation or expansion of a small business. In making this determination, the Authority considered that several representatives of affected small businesses were present at the workshops and at the adoption hearings; and that at the workshops and the adoption hearings, Chairman Andrew J. MacKay asked the participants several times to address any impact on small business; and that no impacts on small business were identified for the regulations as adopted.

Additionally, the Authority afforded businesses additional time following the workshops, as well as prior to and during the adoption hearings to submit, in writing or verbally, any impacts the proposed regulation may have; no written or verbal comments were received by the Authority. Testimony – both oral and written – before, during, and after the workshops, resulted in significant modifications to the proposed regulatory changes. The vast majority of the changes were to eliminate impact on small businesses affected by the proposed regulation.

*Further explanation on how the Authority determined the impact the adopted regulations will have on small businesses can be found in statement prepared by Chairman MacKay pursuant to NRS 233B.0608 and NRS 233B.0608.