

SENATE BILL NO. 364—SENATOR BEERS

MARCH 19, 2007

Referred to Committee on Transportation and Homeland Security

SUMMARY—Makes various changes to provisions related to the regulation of certain owners and operators of tow cars and charter buses. (BDR 58-475)

FISCAL NOTE: Effect on Local Government: No.
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 motor carriers; prohibiting the Transportation Services Authority from regulating an owner or operator of a charter bus and an operator of a tow car who performs towing services with the consent of the owner of a vehicle; requiring that administrative costs related to the regulation of motor carriers be paid from the State Highway Fund; transferring certain regulatory powers from the Transportation Services Authority to the Department of Motor Vehicles; repealing provisions relating to safety enforcement by the Transportation Services Authority; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing federal law, 49 U.S.C. § 14501, prohibits states from regulating charter buses and towing services performed with the consent of the owner of the vehicle.

Section 1 of this bill exempts an owner or operator of a charter bus and an operator of a tow car who performs towing services with the consent of the owner of the vehicle from regulation by the Transportation Services Authority. (NRS 706.072)

Sections 2 and 5 of the bill remove the Authority's jurisdiction over safety issues pertaining to certain motor carriers. **Section 3** of this bill deletes the Authority's ability to adopt regulations regarding safety standards for common, contract and private motor carriers of passengers and property. (NRS 706.173)

Section 4 of this bill provides that the administrative costs relating to the enforcement of certain motor carrier provisions will be paid from the State



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Highway Fund instead of the Transportation Services Authority Regulatory Fund, which is abolished in **section 13** of this bill. (NRS 706.201, 706.1516)

Sections 6 and 9 of this bill remove the Authority's jurisdiction over insurance issues pertaining to certain motor carriers.

Sections 7, 8, and 10-12 of this bill provide that certain regulatory provisions apply only to the operator of a tow car for services performed without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle. (NRS 706.386, 706.4463, 706.4465, 706.4467, 706.461)

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

Section 1. NRS 706.072 is hereby amended to read as follows:

706.072 "Fully regulated carrier" means a common carrier or contract carrier of passengers or household goods who is required to obtain from the Authority a certificate of public convenience and necessity or a contract carrier's permit and whose rates, routes and services are subject to regulation by the Authority. *The term does not include the owner or operator of a charter bus or the operator of a tow car who performs towing services with the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle.*

Sec. 2. NRS 706.166 is hereby amended to read as follows:

706.166 The Authority shall:

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

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

(b) Every operator of a tow car concerning the rates and charges assessed for towing services performed without the prior consent of the operator of the vehicle or the person authorized by the owner to operate the vehicle and pursuant to the provisions of NRS 706.011 to 706.791, inclusive.

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

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

~~—(a) Providing training in safety;~~

~~—(b) Reviewing and observing the programs or inspections of the carrier relating to safety; and~~



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~~—(c) Conducting inspections relating to safety at the operating terminals of the carrier.~~

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

(a) Fares of fully regulated carriers;

(b) All rates of fully regulated carriers and rates of operators of tow cars for towing services performed without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle;

(c) Classifications;

(d) Divisions;

(e) Allowances; and

(f) All charges of fully regulated carriers and charges of operators of tow cars for towing services performed without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle, including charges between carriers and compensation paid or received for the use of facilities and equipment.

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

~~[5.]~~ 4. Review decisions of the Taxicab Authority appealed to the Authority pursuant to NRS 706.8819.

Sec. 3. NRS 706.173 is hereby amended to read as follows:

706.173 1. The ~~[Authority, the]~~ Department of Motor Vehicles or the Department of Public Safety may, by regulation applicable to common, contract and private motor carriers of passengers and property, adopt standards for safety for drivers and vehicles.

2. The Department of Motor Vehicles or the Department of Public Safety may, by regulation applicable to all motor vehicles transporting hazardous materials, adopt standards for the transportation of hazardous materials and hazardous waste as defined in NRS 459.430.

Sec. 4. NRS 706.201 is hereby amended to read as follows:

706.201 ~~[To the extent that such costs cannot be paid for from the Transportation Services Authority Regulatory Fund, the]~~ **The** costs of administration of this chapter must be paid from the State Highway Fund on claims presented by the Authority or Department, approved by the State Board of Examiners.

Sec. 5. NRS 706.246 is hereby amended to read as follows:

706.246 Except as otherwise provided in NRS 706.235:

1. A common or contract motor carrier shall not permit or require a driver to drive or tow any vehicle revealed by inspection or operation to be in such condition that its operation would be



1 hazardous or likely to result in a breakdown of the vehicle, and a
2 driver shall not drive or tow any vehicle which by reason of its
3 mechanical condition is so imminently hazardous to operate as to be
4 likely to cause an accident or a breakdown of the vehicle. If, while
5 any vehicle is being operated on a highway, it is discovered to be in
6 such an unsafe condition, it may be continued in operation, except
7 as further limited by subsection 2, only to the nearest place where
8 repairs can safely be effected, and even that operation may be
9 conducted only if it is less hazardous to the public than permitting
10 the vehicle to remain on the highway.

11 2. A common or contract motor carrier or private motor carrier
12 shall not permit or require a driver to drive or tow, and a driver shall
13 not drive or tow, any vehicle which:

14 (a) By reason of its mechanical condition is so imminently
15 hazardous to operate as to be likely to cause an accident or a
16 breakdown; and

17 (b) Has been declared "out of service" by an authorized
18 employee of the ~~[Authority, the]~~ Department of Motor Vehicles or
19 the Department of Public Safety.

20 ➤ When the repairs have been made, the carrier shall so certify to
21 the ~~[Authority or the]~~ department that declared the vehicle "out of
22 service," as required by ~~[the Authority or]~~ that department.

23 **Sec. 6.** NRS 706.291 is hereby amended to read as follows:

24 706.291 1. ~~[The Authority shall require every fully regulated~~
25 ~~carrier and every operator of a tow car, within such time and in such~~
26 ~~amounts as the Authority may designate, to file with the Authority~~
27 ~~in a form required and approved by the Authority a liability~~
28 ~~insurance policy, or a certificate of insurance in lieu thereof, or a~~
29 ~~bond of a surety company, or other surety, in such reasonable sum~~
30 ~~as the Authority may deem necessary to protect adequately the~~
31 ~~interests of the public.~~

32 ~~—2.]~~ The Department shall require every ~~[other]~~ common and
33 contract motor carrier and every private carrier, within such time
34 and in such amounts as the Department may designate, to file with
35 the Department in a form required and approved by the Department
36 a liability insurance policy, or a certificate of insurance in lieu
37 thereof, a bond of a surety company, or other surety, in such
38 reasonable sum as the Department may deem necessary to protect
39 adequately the interests of the public. In determining the amount of
40 liability insurance or other surety required of a carrier pursuant to
41 this subsection, the Department shall create a separate category for
42 vehicles with a manufacturer's gross vehicle weight rating of less
43 than 26,000 pounds and impose a lesser requirement with respect to
44 such vehicles.



~~[3.]~~ 2. The liability insurance policy or certificate, policy or bond of a surety company or other surety must bind the obligors thereunder to pay the compensation for injuries to persons or for loss or damage to property resulting from the negligent operation of the carrier.

~~[4.]~~ 3. The ~~[Authority and the]~~ Department may ~~[jointly]~~ prescribe by regulation the respective amounts and forms required by ~~[subsections]~~ *subsection 1 . [and 2.]*

Sec. 7. NRS 706.386 is hereby amended to read as follows:

706.386 It is unlawful, except as otherwise provided in NRS 373.117, 706.446, 706.453 and 706.745, for any fully regulated common motor carrier to operate as a carrier of intrastate commerce and any operator of a tow car *who performs towing services without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle* to perform towing services within this State without first obtaining a certificate of public convenience and necessity from the Authority.

Sec. 8. NRS 706.4463 is hereby amended to read as follows:

706.4463 1. In addition to the other requirements of this chapter, each operator of a tow car *who performs towing services without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle* shall, to protect the health, safety and welfare of the public:

(a) Obtain a certificate of public convenience and necessity from the Authority before he provides any services other than those services which he provides as a private motor carrier of property pursuant to the provisions of this chapter;

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

(c) Comply with the provisions of NRS 706.011 to 706.791, inclusive.

2. A person who wishes to obtain a certificate of public convenience and necessity to operate a tow car *to perform towing services without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle* must file an application with the Authority.

3. The Authority shall issue a certificate of public convenience and necessity to an operator of a tow car *who performs towing services without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle* if it determines that the applicant:

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



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

(c) Has provided evidence that he has filed with the ~~[Authority]~~ **Department** a liability insurance policy, a certificate of insurance or a bond of a surety and bonding company or other surety required ~~[[for every operator of a tow car]]~~ pursuant to the provisions of NRS 706.291; and

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

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

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

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

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

Sec. 9. NRS 706.4464 is hereby amended to read as follows:

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

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

(a) Complies with the provisions of NRS 706.011 to 706.791, inclusive, and the regulations adopted by the Authority pursuant to those provisions;

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

(c) Has provided evidence that he has filed with the ~~[Authority]~~ **Department** a liability insurance policy, a certificate of insurance or



1 a bond of a surety and bonding company or other surety required for
2 every operator of a tow car pursuant to the provisions of NRS
3 706.291; and

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

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

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

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

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

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

31 **Sec. 10.** NRS 706.4465 is hereby amended to read as follows:

32 706.4465 The operator *of a tow car who performs towing*
33 *services without the prior consent of the owner of the vehicle or*
34 *the person authorized by the owner to operate the vehicle* shall
35 maintain a dispatcher's log which shows for each vehicle towed:

36 1. The date and time the call to provide towing was received.

37 2. The name of the person requesting that the vehicle be towed.

38 3. The date and time a tow car was dispatched to provide the
39 towing.

40 4. The date and time the tow car arrived at the location of the
41 vehicle to be towed.

42 5. The date and time the towing was completed.

43 6. The model, make, year of manufacture, vehicle
44 identification number and license plate number of the towed motor
45 vehicle.



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Sec. 11. NRS 706.4467 is hereby amended to read as follows:

706.4467 In towing and storing a towed motor vehicle, cargo and personal property, the operator *of a tow car who performs towing services without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle* shall:

1. Treat original and substituted accessories and equipment of the motor vehicle as part of the vehicle rather than personal property.

2. Protect from theft and damage a towed motor vehicle, cargo and personal property which comes into his possession as the result of a tow.

3. Provide access during normal business hours to motor vehicles which were towed to the owner, or the agent of the owner.

4. Establish procedures that allow the owner, or agent of the owner, of a towed motor vehicle access to the vehicle or to obtain the release of the vehicle during those periods in which the operator is not normally open for such transactions.

5. Not hold or retain any cargo or personal property which comes into his possession as the result of towing as security or for any purpose other than compliance with the direction of appropriate law enforcement agencies.

6. Afford the owner of the vehicle or his agent the opportunity to inspect and inventory the vehicle before release to detect damage or theft of property. If damage or theft is detected, the operator shall:

(a) Resolve the complaint to the satisfaction of the claimant; or

(b) Identify the carrier of its insurance and explain the procedure for filing a claim.

Sec. 12. NRS 706.461 is hereby amended to read as follows:

706.461 When:

1. A complaint has been filed with the Authority alleging that any vehicle is being operated without a certificate of public convenience and necessity or contract carrier's permit as required by NRS 706.011 to 706.791, inclusive; or

2. The Authority has reason to believe that any:

(a) Person is advertising to provide:

(1) The services of a fully regulated carrier in intrastate commerce; or

(2) Towing services *which are performed without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle,*

↪ without including the number of his certificate of public convenience and necessity or permit in each advertisement; or



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(b) Provision of NRS 706.011 to 706.791, inclusive, is being violated,

→ the Authority shall investigate the operations or advertising and may, after a hearing, order the owner or operator of the vehicle or the person advertising to cease and desist from any operation or advertising in violation of NRS 706.011 to 706.791, inclusive. The Authority shall enforce compliance with the order pursuant to the powers vested in the Authority by NRS 706.011 to 706.791, inclusive, or by other law.

Sec. 13. NRS 706.1516, 706.251, 706.256, 706.266 and 706.463 are hereby repealed.

Sec. 14. On July 1, 2007, the State Controller shall transfer all assets and liabilities from the Transportation Services Authority Regulatory Fund, abolished pursuant to section 13 of this act, to the State Highway Fund created by NRS 408.235.

Sec. 15. This act becomes effective on July 1, 2007.

LEADLINES OF REPEALED SECTIONS

706.1516 Transportation Services Authority Regulatory Fund: Creation; deposits; use; claims; statements.

706.251 Report of accident: Requirements; preservation; confidentiality.

706.256 Power of Authority to order repairs of facilities and use of safety appliances.

706.266 Intrastate motor carriers required to furnish information to Authority.

706.463 Regulation of owner or operator of charter bus which is not fully regulated carrier: Safety; liability insurance and bonds; schedules and tariffs.

