

ASSEMBLY BILL NO. 351—ASSEMBLYWOMAN CARLTON

MARCH 21, 2011

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing certain motor carriers.
(BDR 58-1049)

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 motor carriers; authorizing operators of taxicabs and operators of limousines to accept credit cards and debit cards for payment of rates, fares and charges; authorizing the prescribing of maximum fees that may be charged to customers of taxicabs and limousines for the convenience of payment by a credit card or debit card; prohibiting issuers of credit cards and debit cards in this State from prohibiting the collection of the convenience fees; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The Nevada Transportation Authority regulates common motor carriers of passengers, which include limousines and, in counties with a population of less than 400,000 (currently all counties other than Clark County), taxicabs. (NRS 706.166) The Taxicab Authority regulates taxicabs in counties with a population of 400,000 or more (currently Clark County). (NRS 706.8818)

Sections 2 and 3 of this bill authorize taxicab and limousine operators to accept payment by a credit card or debit card. **Section 2** authorizes the Nevada Transportation Authority to prescribe by regulation the maximum fees that a taxicab motor carrier or limousine operator within its jurisdiction may charge for the convenience of paying by using a credit card or debit card. **Section 3** authorizes the Taxicab Authority to prescribe by regulation the maximum fees that a certificate holder in a county whose population is 400,000 or more may charge for the convenience of paying by using a credit card or debit card.

Sections 9 and 10 of this bill prohibit an issuer of a credit card or debit card who is located in this State from prohibiting the collection by a taxicab or limousine operator of the convenience fee.



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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 the provisions set forth as sections 2 and 3 of this act.

3 **Sec. 2. 1.** *A taxicab motor carrier or an operator of a*
4 *limousine may enter into a contract with an issuer of credit cards*
5 *and debit cards to provide for the acceptance of credit cards or*
6 *debit cards by the taxicab motor carrier or the operator of a*
7 *limousine for the payment of rates, fares and charges owed to the*
8 *taxicab motor carrier or the operator of a limousine.*

9 **2.** *The Authority may prescribe by regulation the maximum*
10 *fee that a taxicab motor carrier or an operator of a limousine may*
11 *charge a customer for the convenience of using a credit card or*
12 *debit card to make payment to the taxicab motor carrier or the*
13 *operator of a limousine. In prescribing such fees, the Authority*
14 *may consider the expenses incurred by the taxicab motor carrier*
15 *or the operator of a limousine in accepting payment by a credit*
16 *card or debit card, including, without limitation:*

17 *(a) Costs of required equipment and its installation;*

18 *(b) Administrative costs of processing credit card or debit card*
19 *transactions; and*

20 *(c) Fees paid to issuers of credit cards or debit cards.*

21 **3.** *For contracts between a taxicab motor carrier or an*
22 *operator of a limousine and an issuer located outside this State, a*
23 *taxicab motor carrier or an operator of a limousine may only*
24 *charge a fee authorized by this section to the extent that the fee is*
25 *allowed under the contract between the taxicab motor carrier or*
26 *the operator of a limousine and the issuer of the credit card or*
27 *debit card.*

28 **4.** *As used in this section, "issuer" has the meaning ascribed*
29 *to it in NRS 205.650.*

30 **Sec. 3. 1.** *A certificate holder may enter into a contract*
31 *with an issuer of credit cards and debit cards to provide for the*
32 *acceptance of credit cards or debit cards by the certificate holder*
33 *for the payment of rates, fares and charges owed to the certificate*
34 *holder.*

35 **2.** *The Taxicab Authority may prescribe by regulation the*
36 *maximum fee that a certificate holder may charge a customer for*
37 *the convenience of using a credit card or debit card to make*
38 *payment to the certificate holder. In prescribing such fees, the*
39 *Taxicab Authority may consider the expenses incurred by the*



1 *certificate holder in accepting payment by a credit card or debit*
2 *card, including, without limitation:*

3 (a) *Costs of required equipment and its installation;*

4 (b) *Administrative costs of processing credit card or debit card*
5 *transactions; and*

6 (c) *Fees paid to issuers of credit cards or debit cards.*

7 3. *For contracts between a certificate holder and an issuer*
8 *located outside this State, a certificate holder may only charge a*
9 *fee authorized by this section to the extent that the fee is allowed*
10 *under the contract between the certificate holder and the issuer of*
11 *the credit card or debit card.*

12 4. *As used in this section, "issuer" has the meaning ascribed*
13 *to it in NRS 205.650.*

14 **Sec. 4.** NRS 706.011 is hereby amended to read as follows:

15 706.011 As used in NRS 706.011 to 706.791, inclusive, *and*
16 *section 2 of this act*, unless the context otherwise requires, the
17 words and terms defined in NRS 706.013 to 706.146, inclusive,
18 have the meanings ascribed to them in those sections.

19 **Sec. 5.** NRS 706.756 is hereby amended to read as follows:

20 706.756 1. Except as otherwise provided in subsection 2, any
21 person who:

22 (a) Operates a vehicle or causes it to be operated in any carriage
23 to which the provisions of NRS 706.011 to 706.861, inclusive, *and*
24 *section 2 of this act* apply without first obtaining a certificate,
25 permit or license, or in violation of the terms thereof;

26 (b) Fails to make any return or report required by the provisions
27 of NRS 706.011 to 706.861, inclusive, *and section 2 of this act* or
28 by the Authority or the Department pursuant to the provisions of
29 NRS 706.011 to 706.861, inclusive ~~§~~, *and section 2 of this act;*

30 (c) Violates, or procures, aids or abets the violating of, any
31 provision of NRS 706.011 to 706.861, inclusive ~~§~~, *and section 2*
32 *of this act;*

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

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

37 (f) Advertises, solicits, proffers bids or otherwise is held out to
38 perform transportation as a common or contract carrier in violation
39 of any of the provisions of NRS 706.011 to 706.861, inclusive ~~§~~,
40 *and section 2 of this act;*

41 (g) Advertises as providing:

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

43 (2) Towing services,



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1 ↪ without including the number of the person's certificate of public
2 convenience and necessity or contract carrier's permit in each
3 advertisement;

4 (h) Knowingly offers, gives, solicits or accepts any rebate,
5 concession or discrimination in violation of the provisions of this
6 chapter;

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

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

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

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

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

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

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

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

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

41 3. Any person who, in violation of the provisions of NRS
42 706.386, operates or permits the operation of a vehicle in passenger
43 service without first obtaining a certificate of public convenience
44 and necessity is guilty of a gross misdemeanor.



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

5. The fines provided in this section are mandatory and must not be reduced under any circumstances by the court.

6. Any bail allowed must not be less than the appropriate fine provided for by this section.

Sec. 6. NRS 706.881 is hereby amended to read as follows:

706.881 1. The provisions of NRS 706.8811 to 706.885, inclusive, *and section 3 of this act*, apply to any county:

(a) Whose population is 400,000 or more; or

(b) For whom regulation by the Taxicab Authority is not required, if the board of county commissioners of the county has enacted an ordinance approving the inclusion of the county within the jurisdiction of the Taxicab Authority.

2. Upon receipt of a certified copy of such an ordinance from a county for whom regulation by the Taxicab Authority is not required, the Taxicab Authority shall exercise its regulatory authority pursuant to NRS 706.8811 to 706.885, inclusive, *and section 3 of this act*, within that county.

3. Within any such county, the provisions of this chapter which confer regulatory authority over taxicab motor carriers upon the Nevada Transportation Authority do not apply.

Sec. 7. NRS 706.8811 is hereby amended to read as follows:

706.8811 As used in NRS 706.881 to 706.885, inclusive, *and section 3 of this act*, unless the context otherwise requires, the words and terms defined in NRS 706.8812 to 706.8817, inclusive, have the meanings ascribed to them in those sections.

Sec. 8. NRS 706.885 is hereby amended to read as follows:

706.885 1. Any person who knowingly makes or causes to be made, either directly or indirectly, a false statement on an application, account or other statement required by the Taxicab Authority or the Administrator or who violates any of the provisions of NRS 706.881 to 706.885, inclusive, *and section 3 of this act* is guilty of a misdemeanor.

2. The Taxicab Authority or Administrator may at any time, for good cause shown and upon at least 5 days' notice to the grantee of any certificate or driver's permit, and after a hearing unless waived by the grantee, penalize the grantee of a certificate to a maximum amount of \$15,000 or penalize the grantee of a driver's permit to a maximum amount of \$500 or suspend or revoke the certificate or driver's permit granted by the Taxicab Authority or Administrator, respectively, for:



(a) Any violation of any provision of NRS 706.881 to 706.885, inclusive, *and section 3 of this act* or any regulation of the Taxicab Authority or Administrator.

(b) Knowingly permitting or requiring any employee to violate any provision of NRS 706.881 to 706.885, inclusive, *and section 3 of this act* or any regulation of the Taxicab Authority or Administrator.

➤ If a penalty is imposed on the grantee of a certificate pursuant to this section, the Taxicab Authority or Administrator may require the grantee to pay the costs of the proceeding, including investigative costs and attorney's fees.

3. When a driver or certificate holder fails to appear at the time and place stated in the notice for the hearing, the Administrator shall enter a finding of default. Upon a finding of default, the Administrator may suspend or revoke the license, permit or certificate of the person who failed to appear and impose the penalties provided in this chapter. For good cause shown, the Administrator may set aside a finding of default and proceed with the hearing.

4. Any person who operates or permits a taxicab to be operated in passenger service without a certificate of public convenience and necessity issued pursuant to NRS 706.8827, is guilty of a gross misdemeanor. If a law enforcement officer witnesses a violation of this subsection, the law enforcement officer may cause the vehicle to be towed immediately from the scene.

5. The conviction of a person pursuant to subsection 1 does not bar the Taxicab Authority or Administrator from suspending or revoking any certificate, permit or license of the person convicted. The imposition of a fine or suspension or revocation of any certificate, permit or license by the Taxicab Authority or Administrator does not operate as a defense in any proceeding brought under subsection 1.

Sec. 9. NRS 97A.210 is hereby amended to read as follows:

97A.210 *1.* No issuer may, by contract or otherwise, prohibit a merchant from offering a discount to a customer to induce the customer to pay by cash, check or similar means rather than by use of a credit card or a credit card account for the purchase of goods or services.

2. No issuer located in this State may, by contract or otherwise, prohibit a taxicab motor carrier or an operator of a limousine from charging and collecting a fee authorized pursuant to subsection 2 of section 2 of this act, or a certificate holder from charging and collecting such a fee pursuant to subsection 2 of section 3 of this act, as applicable, for payment by a credit card.



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1 **Sec. 10.** Chapter 657 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 1. *An issuer shall not, by contract or otherwise, prohibit a*
4 *taxicab motor carrier or an operator of a limousine from charging*
5 *and collecting a fee authorized pursuant to subsection 2 of section*
6 *2 of this act, or a certificate holder from charging and collecting*
7 *such a fee pursuant to subsection 2 of section 3 of this act, as*
8 *applicable, for payment by a credit card or debit card.*

9 2. *As used in this section:*

10 (a) *“Credit card” means any instrument or device, whether*
11 *known as a credit card or by any other name, that is issued with or*
12 *without a fee by an issuer for the use of the cardholder in*
13 *obtaining money, property, goods, services or anything else of*
14 *value on credit.*

15 (b) *“Debit card” means any instrument or device, whether*
16 *known as a debit card or by any other name, that is issued with or*
17 *without a fee by an issuer for the use of the cardholder in*
18 *obtaining money, property, goods, services or anything else of*
19 *value, subject to the issuer removing money from the checking*
20 *account or savings account of the cardholder.*

21 (c) *“Issuer” means a financial institution, business*
22 *organization or authorized agent of a financial institution or*
23 *business organization which:*

24 (1) *Is located in this State;*

25 (2) *Is licensed pursuant to the provisions of this title or title*
26 *56 of NRS; and*

27 (3) *Issues a credit card or debit card.*

