

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 and certain other persons from prohibiting the collection of the convenience fees; requiring the Taxicab Authority to compile a report for the Legislature concerning the costs of purchasing, installing and maintaining equipment to accept such payments; requiring a portion of the fee paid in certain counties to be used for certain transportation services; 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 2 and 3** also set forth the manner in which the amount of the fee that may be charged will be determined and prohibit an issuer of a credit card or debit card or certain other persons who facilitate the acceptance of a credit card or debit card from prohibiting the collection by a taxicab or limousine operator of the convenience fee.

Section 11 of this bill requires each taxicab motor carrier in a county whose population is 700,000 or more (currently Clark County) to transmit a report to the Taxicab Authority on or before January 1, 2012, July 1, 2012, January 1, 2013, and July 1, 2013, which sets out the actual costs that the taxicab motor carrier incurred during the immediately preceding 6 months to purchase, install and maintain the equipment used to accept credit cards or debit cards. **Section 11** requires the Taxicab Authority to compile the information contained in the reports within 30 days of receipt and transmit the information to the Director of the Legislative Counsel Bureau for distribution to the Legislature.

Section 12 of this bill requires each taxicab motor carrier in a county whose population is 700,000 or more (currently Clark County) that charges a fee to customers for using a credit card or debit card to transmit a portion of the fee so collected to the Taxicab Authority on or before January 1, 2012, July 1, 2012, and January 1, 2013. The Taxicab Authority is required to determine the amount to be transmitted on a fair and equitable basis to ensure that the Taxicab Authority is able to transmit \$400,000 on or before January 15, 2012, July 15, 2012, and January 15, 2013, to the Aging and Disability Services Division of the Department of Health and Human Services for expenditure on transportation services in Clark County.

Section 13 of this bill requires the adoption of any regulations by the Taxicab Authority and the Nevada Transportation Authority necessary to implement the bill by October 1, 2011.

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

Section 1. Chapter 706 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

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

2. The Authority may prescribe by regulation the maximum fee that a taxicab motor carrier or an operator of a limousine may charge a customer for the convenience of using a credit card or debit card to make payment to the taxicab motor carrier or the operator of a limousine. The Authority shall establish the fee in an amount that allows the taxicab motor carrier or the operator of a limousine to recover the costs incurred in accepting payment by a credit card or debit card. Only the costs associated with accepting



1 *payment by a credit card or debit card may be included in*
2 *establishing the amount of the fee, 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. An issuer shall not, by contract or otherwise:*

8 *(a) Prohibit a taxicab motor carrier or an operator of a*
9 *limousine from charging and collecting a fee authorized pursuant*
10 *to subsection 2; or*

11 *(b) Require a taxicab motor carrier or an operator of a*
12 *limousine to waive the right to charge and collect a fee authorized*
13 *pursuant to subsection 2.*

14 *4. As used in this section, "issuer" means a business*
15 *organization, financial institution or a duly authorized agency of a*
16 *business organization or financial institution which:*

17 *(a) Issues a credit card or debit card; or*

18 *(b) Enters into a contract with a taxicab motor carrier, an*
19 *operator of a limousine or other person to enable or facilitate the*
20 *acceptance of a credit card or debit card.*

21 **Sec. 3. 1.** *A certificate holder may enter into a contract*
22 *with an issuer of credit cards and debit cards to provide for the*
23 *acceptance of credit cards or debit cards by the certificate holder*
24 *for the payment of rates, fares and charges owed to the certificate*
25 *holder.*

26 *2. The Taxicab Authority may prescribe by regulation the*
27 *maximum fee that a certificate holder may charge a customer for*
28 *the convenience of using a credit card or debit card to make*
29 *payment to the certificate holder. The Taxicab Authority shall*
30 *establish the fee in an amount that allows the certificate holder to*
31 *recover the costs incurred in accepting payment by a credit card or*
32 *debit card. Only the costs associated with accepting payment by a*
33 *credit card or debit card may be included in establishing the*
34 *amount of the fee, including, without limitation:*

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

36 *(b) Administrative costs of processing credit card or debit card*
37 *transactions; and*

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

39 *3. An issuer shall not, by contract or otherwise:*

40 *(a) Prohibit a certificate holder from charging and collecting a*
41 *fee authorized pursuant to subsection 2; or*

42 *(b) Require a certificate holder to waive the right to charge*
43 *and collect a fee authorized pursuant to subsection 2.*



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1 **4. As used in this section, “issuer” means a business**
2 **organization, financial institution or a duly authorized agency of a**
3 **business organization or financial institution which:**

4 **(a) Issues a credit card or debit card; or**

5 **(b) Enters into a contract with a certificate holder or other**
6 **person to enable or facilitate the acceptance of a credit card or**
7 **debit card.**

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

9 706.011 As used in NRS 706.011 to 706.791, inclusive, **and**
10 **section 2 of this act**, unless the context otherwise requires, the
11 words and terms defined in NRS 706.013 to 706.146, inclusive,
12 have the meanings ascribed to them in those sections.

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

14 706.756 1. Except as otherwise provided in subsection 2, any
15 person who:

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

20 (b) Fails to make any return or report required by the provisions
21 of NRS 706.011 to 706.861, inclusive, **and section 2 of this act** or
22 by the Authority or the Department pursuant to the provisions of
23 NRS 706.011 to 706.861, inclusive **[§], and section 2 of this act;**

24 (c) Violates, or procures, aids or abets the violating of, any
25 provision of NRS 706.011 to 706.861, inclusive **[§], and section 2**
26 **of this act;**

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

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

31 (f) Advertises, solicits, proffers bids or otherwise is held out to
32 perform transportation as a common or contract carrier in violation
33 of any of the provisions of NRS 706.011 to 706.861, inclusive **[§],**
34 **and section 2 of this act;**

35 (g) Advertises as providing:

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

37 (2) Towing services,

38 ↪ without including the number of the person’s certificate of public
39 convenience and necessity or contract carrier’s permit in each
40 advertisement;

41 (h) Knowingly offers, gives, solicits or accepts any rebate,
42 concession or discrimination in violation of the provisions of this
43 chapter;

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



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

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

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

9 (m) Refuses or fails to surrender to the Authority or Department
10 any certificate, permit, license or identifying device which has been
11 suspended, cancelled or revoked pursuant to the provisions of this
12 chapter,

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

17 2. Any person who, in violation of the provisions of NRS
18 706.386, operates as a fully regulated common motor carrier without
19 first obtaining a certificate of public convenience and necessity or
20 any person who, in violation of the provisions of NRS 706.421,
21 operates as a contract motor carrier without first obtaining a permit
22 is guilty of a misdemeanor and shall be punished:

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

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

33 3. Any person who, in violation of the provisions of NRS
34 706.386, operates or permits the operation of a vehicle in passenger
35 service without first obtaining a certificate of public convenience
36 and necessity is guilty of a gross misdemeanor.

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

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

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



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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



1 grantee to pay the costs of the proceeding, including investigative
2 costs and attorney's fees.

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

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

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

24 **Sec. 9.** (Deleted by amendment.)

25 **Sec. 10.** (Deleted by amendment.)

26 **Sec. 11.** 1. Except as otherwise provided by subsection 2, on
27 or before January 1, 2012, July 1, 2012, January 1, 2013, and July 1,
28 2013, each taxicab motor carrier in a county whose population is
29 700,000 or more shall transmit a report to the Taxicab Authority
30 which sets out the actual costs that the taxicab motor carrier incurred
31 during the immediately preceding 6 months to purchase, install and
32 maintain the equipment used to provide for the acceptance of credit
33 cards or debit cards for the payment of rates, fares and other
34 charges.

35 2. The first report transmitted pursuant to this section must
36 include the information for all months preceding January 1, 2012, in
37 which any expenses were incurred to purchase, install and maintain
38 the equipment used to provide for the acceptance of credit cards or
39 debit cards for the payment of rates, fares and other charges.

40 3. Within 30 days after receipt of the reports made pursuant to
41 this section, the Taxicab Authority shall compile the information
42 contained in the reports and transmit that information to the Director
43 of the Legislative Counsel Bureau for distribution to the Legislature.

44 **Sec. 12.** The Taxicab Authority shall require all taxicab motor
45 carriers in a county whose population is 700,000 or more who



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1 charge a customer a fee for the convenience of using a credit card or
2 debit card for rates, fares or other charges to transmit a portion of
3 those fees to the Authority on or before January 1, 2012, July 1,
4 2012, and January 1, 2013. The Taxicab Authority shall determine
5 the amount of the fees required to be transmitted on a fair and
6 equitable basis which ensures that the amount necessary is collected
7 from each entity to enable the Taxicab Authority to transmit
8 \$400,000 on or before January 15, 2012, July 15, 2012, and
9 January 15, 2013, to the Aging and Disability Services Division of
10 the Department of Health and Human Services. The entire amount
11 of the \$1,200,000 transmitted to the Division must be expended on
12 transportation services in Clark County provided through the Senior
13 Ride Program and the Independent Living Grants Program.

14 **Sec. 13.** The Taxicab Authority and the Nevada
15 Transportation Authority shall each adopt any regulations necessary
16 to implement the provisions of this act on or before October 1, 2011.

17 **Sec. 14.** This act becomes effective upon passage and
18 approval.

