

Amendment No. 932

Assembly Amendment to Senate Bill No. 320 First Reprint (BDR 58-1051)

Proposed by: Assembly Committee on Commerce and Labor

Amends: Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold underlining* is newly added transitory language.

MSN/SLP



Date: 6/4/2011

S.B. No. 320—Revises provisions governing certain motor carriers.
(BDR 58-1051)



SENATE BILL NO. 320—SENATOR MANENDO (BY REQUEST)

MARCH 21, 2011

Referred to Committee on Transportation

SUMMARY—Revises provisions governing certain motor carriers.
(BDR 58-1051)

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; revising provisions relating to the period of operation of certain taxicabs; prohibiting a short-term lessor from offering, arranging for or allowing the use of a paid driver; requiring the suspension of the drivers' licenses of certain persons who fail to pay administrative fines to the Nevada Transportation Authority; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the regulation of certain motor carriers in this State by the Nevada Transportation Authority. (NRS 706.011-706.791)

Sections 4.7 and 10.3 of this bill require the suspension of the driver's license of a person who fails to pay certain administrative fines and related costs to the Authority. **Section 10.3** requires a person whose driver's license is suspended for the nonpayment of an administrative fine to the Authority to pay that administrative fine and to pay the fee for reinstatement of his or her driver's license before the driver's license may be reinstated by the Department of Motor Vehicles.

~~Existing law provides that a short-term lessor is not liable for a fine or penalty related to the impoundment of certain vehicles if the vehicle was not in the control of the short-term lessor at the time that it was impounded. (NRS 706.478) Section 8.7 of this bill deletes the requirement that a true copy of the lease or rental agreement pursuant to which a vehicle was leased or rented to a lessee by the short-term lessor is prima facie evidence that the short-term lessor was not in control of the impounded vehicle.~~

Section 10.1 of this bill prohibits a short-term lessor from offering, arranging for or allowing the use of a paid driver whether directly or through an affiliated person.

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 to 4.7, inclusive, of this act.

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 4.3. *In any county for which regulation by the Taxicab Authority is not required pursuant to NRS 706.881:*

1. Except as otherwise provided in subsection 4, if a vehicle acquired for use as a taxicab by a certificate holder pursuant to paragraph (a) of subsection 3 has been in operation as a taxicab for 72 months based on the date on which it was originally placed into operation as a taxicab, the certificate holder shall remove the vehicle from operation as a taxicab.

2. Except as otherwise provided in subsection 4, if a vehicle acquired for use as a taxicab by a certificate holder pursuant to paragraph (b) of subsection 3 has been in operation as a taxicab for 55 months based on the date on which it was originally placed into operation as a taxicab, the certificate holder shall remove the vehicle from operation as a taxicab.

3. Any vehicle which a certificate holder acquires for use as a taxicab must:

(a) Be new; or

(b) Register not more than 30,000 miles on the odometer.

4. If a hybrid electric vehicle, as defined in 40 C.F.R. § 86.1702-99, is acquired for use as a taxicab by a certificate holder, the period of operation as a taxicab specified in subsections 1 and 2 shall be extended for an additional 24 months for that vehicle.

Sec. 4.7. *1. If the Authority imposes an administrative fine pursuant to NRS 706.476 or 706.771 in an amount greater than \$100, the person who is responsible for payment of the administrative fine shall:*

(a) Pay to the Authority the full amount of the administrative fine and any other costs related to the administrative fine owed by that person; or

(b) If the person is unable to pay the full amount owed, enter into a plan of repayment with the Authority for the payment over time of the administrative fine.

2. The Authority shall, within 20 days after imposing an administrative fine pursuant to NRS 706.476 or 706.771, provide notice by first-class mail to the person against whom the administrative fine is imposed. The notice must include a statement:

(a) Of the amount of the administrative fine and any other costs which must be paid to the Authority;

(b) That the person must, within 14 days after receiving the notice:

(1) Pay to the Authority the full amount of the administrative fine and any other costs; or

(2) If a plan of repayment has been approved by the Authority, comply with the terms of the plan of repayment; and

(c) That the Authority is required to notify the Department of Motor Vehicles of the failure to pay the amount owed and that the Department may suspend the driver's license of the person for failure to pay the administrative fine and any other costs.

3. *The Authority shall provide to the Department of Motor Vehicles the name of a person to whom a notice is sent pursuant to subsection 2 and the date on which the notice was sent.*

4. *The Authority shall, within 5 days after receiving payment from a person or approving a plan of repayment, notify the Department of Motor Vehicles that the person has satisfied the requirements for payment of the administrative fine and any other costs owed by the person.*

5. *The provisions of this section do not relieve the Authority of any obligation to notify the State Controller of any debt that is past due pursuant to chapter 353C of NRS.*

Sec. 5. NRS 706.011 is hereby amended to read as follows:

706.011 As used in NRS 706.011 to 706.791, inclusive, *and sections 2 to 4.7, inclusive, of this act*, unless the context otherwise requires, the words and terms defined in NRS 706.013 to 706.146, inclusive, have the meanings ascribed to them in those sections.

Sec. 6. NRS 706.158 is hereby amended to read as follows:

706.158 The provisions of NRS 706.011 to 706.791, inclusive, *and sections 2 to 4.7, inclusive, of this act* relating to brokers do not apply to any person whom the Authority determines is:

1. A motor club which holds a valid certificate of authority issued by the Commissioner of Insurance;

2. A bona fide charitable organization, such as a nonprofit corporation or a society, organization or association for educational, religious, scientific or charitable purposes; or

3. A broker of transportation services provided by an entity that is exempt pursuant to NRS 706.745 from the provisions of NRS 706.386 or 706.421.

Sec. 7. NRS 706.163 is hereby amended to read as follows:

706.163 The provisions of NRS 706.011 to 706.861, inclusive, *and sections 2 to 4.7, inclusive, of this act* do not apply to vehicles leased to or owned by:

1. The Federal Government or any instrumentality thereof.

2. Any state or a political subdivision thereof.

Sec. 8. NRS 706.2885 is hereby amended to read as follows:

706.2885 1. A certificate of public convenience and necessity, permit or license issued in accordance with this chapter is not a franchise and may be revoked.

2. The Authority may at any time, for good cause shown, after investigation and hearing and upon 5 days' written notice to the grantee, suspend any certificate, permit or license issued in accordance with the provisions of NRS 706.011 to 706.791, inclusive, *and sections 2 to 4.7, inclusive, of this act* for a period not to exceed 60 days.

3. Upon receipt of a written complaint or on its own motion, the Authority may, after investigation and hearing, revoke any certificate, permit or license. If service of the notice required by subsection 2 cannot be made or if the grantee relinquishes the grantee's interest in the certificate, permit or license by so notifying the Authority in writing, the Authority may revoke the certificate, permit or license without a hearing.

4. The proceedings thereafter are governed by the provisions of chapter 233B of NRS.

Sec. 8.7. ~~NRS 706.478 is hereby amended to read as follows:~~

~~706.478 1. Notwithstanding any provision of NRS 706.011 to 706.791, inclusive, and sections 2 to 4.7, inclusive, of this act to the contrary, if the registered owner of a vehicle which is impounded pursuant to NRS 706.476 is a short-term lessor licensed pursuant to NRS 482.363 who is engaged solely in the~~

~~business of renting or leasing vehicles in accordance with NRS 482.295 to 482.3159, inclusive, and section 10.1 of this act, the registered owner is not liable for any administrative fine or other penalty that may be imposed by the Authority for the operation of a passenger vehicle in violation of NRS 706.011 to 706.791, inclusive, and sections 2 to 4.7, inclusive, of this act if at the time that the vehicle was impounded, the vehicle was in the care, custody or control of a lessee.~~

~~2. A short-term lessor may establish that a vehicle was subject to the care, custody or control of a lessee at the time that the vehicle was impounded pursuant to NRS 706.476 by submitting to the Authority a true copy of the lease or rental agreement pursuant to which the vehicle was leased or rented to the lessee by the short-term lessor. The submission of a true copy of a lease or rental agreement is prima facie evidence that the vehicle was in the care, custody or control of the lessee.~~

~~3. Upon the receipt of a true copy of a written lease or rental agreement pursuant to subsection 2 which evidences that the vehicle impounded by the Authority pursuant to NRS 706.476 was under the care, custody or control of a lessee and not the registered owner of the vehicle, the Authority shall release the vehicle to the short-term lessor.~~

~~4. As used in this section, "short-term lessor" has the meaning ascribed to it in NRS 482.053.] (Deleted by amendment.)~~

Sec. 9. NRS 706.736 is hereby amended to read as follows:

706.736 1. Except as otherwise provided in subsection 2, the provisions of NRS 706.011 to 706.791, inclusive, *and sections 2 to 4.7, inclusive, of this act* do not apply to:

(a) The transportation by a contractor licensed by the State Contractors' Board of the contractor's own equipment in the contractor's own vehicles from job to job.

(b) Any person engaged in transporting the person's own personal effects in the person's own vehicle, but the provisions of this subsection do not apply to any person engaged in transportation by vehicle of property sold or to be sold, or used by the person in the furtherance of any commercial enterprise other than as provided in paragraph (d), or to the carriage of any property for compensation.

(c) Special mobile equipment.

(d) The vehicle of any person, when that vehicle is being used in the production of motion pictures, including films to be shown in theaters and on television, industrial training and educational films, commercials for television and video discs and tapes.

(e) A private motor carrier of property which is used for any convention, show, exhibition, sporting event, carnival, circus or organized recreational activity.

(f) A private motor carrier of property which is used to attend livestock shows and sales.

(g) The transportation by a private school of persons or property in connection with the operation of the school or related school activities, so long as the vehicle that is used to transport the persons or property does not have a gross vehicle weight rating of 26,001 pounds or more and is not registered pursuant to NRS 706.801 to 706.861, inclusive.

2. Unless exempted by a specific state statute or a specific federal statute, regulation or rule, any person referred to in subsection 1 is subject to:

(a) The provisions of paragraph (d) of subsection 1 of NRS 706.171 and NRS 706.235 to 706.256, inclusive, 706.281, 706.457 and 706.458.

(b) All rules and regulations adopted by reference pursuant to paragraph (b) of subsection 1 of NRS 706.171 concerning the safety of drivers and vehicles.

(c) All standards adopted by regulation pursuant to NRS 706.173.

3. The provisions of NRS 706.311 to 706.453, inclusive, 706.471, 706.473, 706.475 and 706.6411 which authorize the Authority to issue:

(a) Except as otherwise provided in paragraph (b), certificates of public convenience and necessity and contract carriers' permits and to regulate rates, routes and services apply only to fully regulated carriers.

(b) Certificates of public convenience and necessity to operators of tow cars and to regulate rates 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 apply to operators of tow cars.

4. Any person who operates pursuant to a claim of an exemption provided by this section but who is found to be operating in a manner not covered by any of those exemptions immediately becomes liable, in addition to any other penalties provided in this chapter, for the fee appropriate to the person's actual operation as prescribed in this chapter, computed from the date when that operation began.

5. As used in this section, "private school" means a nonprofit private elementary or secondary educational institution that is licensed in this State.

Sec. 10. NRS 706.756 is hereby amended to read as follows:

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

(a) Operates a vehicle or causes it to be operated in any carriage to which the provisions of NRS 706.011 to 706.861, inclusive, *and sections 2 to 4.7, inclusive, of this act* apply without first obtaining a certificate, permit or license, or in violation of the terms thereof;

(b) Fails to make any return or report required by the provisions of NRS 706.011 to 706.861, inclusive, *and sections 2 to 4.7, inclusive, of this act* or by the Authority or the Department pursuant to the provisions of NRS 706.011 to 706.861, inclusive ~~H~~, *and sections 2 to 4.7, inclusive, of this act*;

(c) Violates, or procures, aids or abets the violating of, any provision of NRS 706.011 to 706.861, inclusive ~~H~~, *and sections 2 to 4.7, inclusive, of this act*;

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

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

(f) Advertises, solicits, proffers bids or otherwise is held out to perform transportation as a common or contract carrier in violation of any of the provisions of NRS 706.011 to 706.861, inclusive ~~H~~, *and sections 2 to 4.7, inclusive, of this act*;

(g) Advertises as providing:

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

(2) Towing services,

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

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

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

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

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

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

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

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

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

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

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

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

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. 10.1. Chapter 482 of NRS is hereby amended by adding thereto a new section to read as follows:

It is unlawful for a short-term lessor to offer, arrange for or allow the use of a paid driver whether directly or through an affiliated person.

Sec. 10.3. Chapter 483 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Upon receipt of notice from the Nevada Transportation Authority pursuant to section 4.7 of this act regarding a driver's delinquency with respect to the payment of an administrative fine and any other costs owed to the Authority pursuant to NRS 706.476 or 706.771, the Department shall notify the driver by mail that his or her driver's license is subject to suspension and allow the driver 30 days after the date of mailing the notice to:

(a) Pay to the Authority the delinquent administrative fine and any other costs or comply with a plan of repayment approved pursuant to section 4.7 of this act; or

(b) Make a written request to the Department for a hearing.

2. If notified by the Nevada Transportation Authority, within 30 days after the notice of a delinquency in the payment of an administrative fine, that a driver has entered into a plan for repayment approved pursuant to section 4.7 of this act, the Department shall stop the suspension of the driver's license from going into effect. If the driver subsequently defaults on the plan of repayment with the Authority, the Authority shall notify the Department, which shall immediately suspend the driver's license until the Authority notifies the Department that the license is eligible for reinstatement.

1 3. *The Department shall suspend the driver's license of a driver 31 days*
2 *after it mails the notice provided for in subsection 1 to the driver, unless within*
3 *that time it has received a written request for a hearing from the driver or notice*
4 *from the Nevada Transportation Authority that the driver has paid the*
5 *administrative fine and any other costs or complied with a plan of repayment*
6 *approved pursuant to section 4.7 of this act. A license so suspended remains*
7 *suspended until:*

8 (a) *The Authority notifies the Department that the license is eligible for*
9 *reinstatement; and*

10 (b) *The Department receives payment of the fee for reinstatement required by*
11 *NRS 483.410.*

12 **Sec. 10.5.** NRS 483.010 is hereby amended to read as follows:

13 483.010 The provisions of NRS 483.010 to 483.630, inclusive, *and section*
14 *10.3 of this act* may be cited as the Uniform Motor Vehicle Drivers' License Act.

15 **Sec. 10.6.** NRS 483.015 is hereby amended to read as follows:

16 483.015 Except as otherwise provided in NRS 483.330, the provisions of
17 NRS 483.010 to 483.630, inclusive, *and section 10.3 of this act* apply only with
18 respect to noncommercial drivers' licenses.

19 **Sec. 10.7.** NRS 483.020 is hereby amended to read as follows:

20 483.020 As used in NRS 483.010 to 483.630, inclusive, *and section 10.3 of*
21 *this act*, unless the context otherwise requires, the words and terms defined in NRS
22 483.030 to 483.190, inclusive, have the meanings ascribed to them in those
23 sections.

24 **Sec. 10.9.** NRS 483.420 is hereby amended to read as follows:

25 483.420 1. The Department is hereby authorized to cancel any driver's
26 license upon determining that the licensee was not entitled to the issuance thereof
27 pursuant to NRS 483.010 to 483.630, inclusive, *and section 10.3 of this act* or that
28 the licensee failed to give the required or correct information in his or her
29 application or committed any fraud in making an application.

30 2. Upon cancellation of a driver's license pursuant to subsection 1, the
31 licensee shall surrender the license cancelled to the Department.

32 3. The Department is authorized to cancel any license that is voluntarily
33 surrendered to the Department.

34 **Sec. 11.** 1. This act becomes effective:

35 (a) Upon passage and approval for the purposes of adopting regulations or
36 performing any other preparatory administrative tasks that are necessary to carry
37 out the provisions of this act; and

38 (b) On October 1, 2011, for all other purposes.

39 2. Sections 3 and 4 of this act expire by limitation on the date on which the
40 provisions of 42 U.S.C. § 666 requiring each state to establish procedures under
41 which the state has authority to withhold or suspend, or to restrict the use of
42 professional, occupational and recreational licenses of persons who:

43 (a) Have failed to comply with a subpoena or warrant relating to a proceeding
44 to determine the paternity of a child or to establish or enforce an obligation for the
45 support of a child; or

46 (b) Are in arrears in the payment for the support of one or more children,

47 ↪ are repealed by the Congress of the United States.