

SENATE BILL NO. 142—COMMITTEE ON
COMMERCE, LABOR AND ENERGY

FEBRUARY 10, 2011

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Makes various changes concerning the towing and storage of motor vehicles. (BDR 58-924)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
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 vehicles; prohibiting operators of tow cars from imposing certain fees under certain circumstances; authorizing an insurer to take possession of a motor vehicle upon obtaining the consent of the owner of the motor vehicle or the authorized agent of the owner under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prohibits a tow car operator who stores a motor vehicle that was towed at the request of a law enforcement officer following an accident involving the vehicle from charging the owner of the vehicle a fee for the towing and storage of the vehicle for more than 21 days after placing the vehicle in storage. (NRS 706.4479) **Section 1.5** of this bill also prohibits a tow car operator who tows and stores such a vehicle from imposing any administrative or processing fee, or any fee relating to the auction of the vehicle, for the first 4 business days after the date on which the vehicle was placed in storage, but provides no limitation on the period during which those fees may be imposed.

Section 3 of this bill provides that the owner of a motor vehicle who makes a claim under an insurance policy for damages to the vehicle or the authorized agent of the owner may give consent for the insurer: (1) to tow and store the vehicle at the insurer's expense if the insurer provides notice to the owner that it has declared the vehicle a total loss; or (2) to tow the vehicle to a repair shop designated by the owner if the vehicle is a repairable vehicle. **Section 1** of this bill provides that an insurer may obtain possession of a motor vehicle from a tow car operator if the insurer provides the operator with a form which indicates that the owner of the motor vehicle or his or her agent has consented to the release of the motor vehicle. **Section 1** requires the Commissioner of Insurance to adopt a standard consent form, which must include: (1) the name of the owner of the motor vehicle or his or



her agent from whom the insurer obtained consent; (2) the name of the insurer or his or her agent who obtained the consent and the date on which the consent was obtained; (3) a statement that the insurer obtained the consent of the owner or his or her agent pursuant to **section 3**; (4) the policy number of the policy of motor vehicle insurance applicable to the motor vehicle; (5) the vehicle identification number of the motor vehicle; (6) the model year and make of the motor vehicle; (7) a statement that the insurer will indemnify the operator for any liability relating to the release of the motor vehicle to the insurer; and (8) any other information required by the Commissioner. **Section 1** also provides that a tow car operator who releases a motor vehicle to an insurer upon receipt of a consent form which complies with the requirements established by the Commissioner is not liable in any civil or criminal action for any act related to the release of the motor vehicle to the insurer.

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 a new section to read as follows:

1. If a motor vehicle is towed at the request of someone other than the owner or an authorized agent of the owner, an insurer may obtain possession of the motor vehicle from the operator of the tow car if the insurer:

(a) Obtains the consent of the owner or authorized agent of the owner pursuant to section 3 of this act; and

(b) Provides to the operator of the tow car a consent form which satisfies the requirements of subsection 2.

2. The Commissioner of Insurance shall, by regulation, establish a standard consent form for the purposes of this section, which must include, without limitation:

(a) The name of the owner of the motor vehicle or the authorized agent of the owner from whom the insurer obtained consent pursuant to section 3 of this act;

(b) The name of the insurer or his or her agent who obtained the consent of the owner or the authorized agent of the owner pursuant to section 3 of this act and the date on which the consent was obtained;

(c) A statement that the insurer obtained the consent of the owner or the authorized agent of the owner pursuant to section 3 of this act;

(d) The policy number of the policy of motor vehicle insurance applicable to the motor vehicle;

(e) The vehicle identification number of the motor vehicle;

(f) The model year and make of the motor vehicle;

(g) A statement that the insurer will indemnify the operator of the tow car for any liability relating to the release of the motor vehicle to the insurer; and



1 ***(h) Any other information required by the Commissioner of***
2 ***Insurance.***

3 ***3. An operator of a tow car is not liable in any civil or***
4 ***criminal action for any act related to the release of a motor vehicle***
5 ***to an insurer pursuant to a consent form provided to the operator***
6 ***of the tow car by an insurer pursuant to subsection 1.***

7 **Sec. 1.1.** NRS 706.011 is hereby amended to read as follows:

8 706.011 As used in NRS 706.011 to 706.791, inclusive, ***and***
9 ***section 1 of this act***, unless the context otherwise requires, the
10 words and terms defined in NRS 706.013 to 706.146, inclusive,
11 have the meanings ascribed to them in those sections.

12 **Sec. 1.2.** NRS 706.166 is hereby amended to read as follows:

13 706.166 The Authority shall:

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

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

21 (b) Every operator of a tow car concerning the rates and charges
22 assessed for towing services performed without the prior consent of
23 the operator of the vehicle or the person authorized by the owner to
24 operate the vehicle and pursuant to the provisions of NRS 706.011
25 to 706.791, inclusive ***H***, ***and section 1 of this act.***

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

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

33 (a) Providing training in safety;

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

36 (c) Conducting inspections relating to safety at the operating
37 terminals of the carrier.

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

41 (a) Fares of fully regulated carriers;

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



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- 1 (c) Classifications;
- 2 (d) Divisions;
- 3 (e) Allowances; and
- 4 (f) All charges of fully regulated carriers and charges of
- 5 operators of tow cars for towing services performed without the
- 6 prior consent of the owner of the vehicle or the person authorized by
- 7 the owner to operate the vehicle, including charges between carriers
- 8 and compensation paid or received for the use of facilities and
- 9 equipment.

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

12 5. Review decisions of the Taxicab Authority appealed to the
13 Authority pursuant to NRS 706.8819.

14 **Sec. 1.3.** NRS 706.321 is hereby amended to read as follows:

15 706.321 1. Except as otherwise provided in subsection 2,
16 every common or contract motor carrier shall file with the
17 Authority:

18 (a) Within a time to be fixed by the Authority, schedules and
19 tariffs that must:

20 (1) Be open to public inspection; and

21 (2) Include all rates, fares and charges which the carrier has
22 established and which are in force at the time of filing for any
23 service performed in connection therewith by any carrier controlled
24 and operated by it.

25 (b) As a part of that schedule, all regulations of the carrier that
26 in any manner affect the rates or fares charged or to be charged for
27 any service and all regulations of the carrier that the carrier has
28 adopted to comply with the provisions of NRS 706.011 to 706.791,
29 inclusive **H**, and *section 1 of this act*.

30 2. Every operator of a tow car shall file with the Authority:

31 (a) Within a time to be fixed by the Authority, schedules and
32 tariffs that must:

33 (1) Be open to public inspection; and

34 (2) Include all rates and charges for towing services
35 performed without the prior consent of the owner of the vehicle or
36 the person authorized by the owner to operate the vehicle which the
37 operator has established and which are in force at the time of filing.

38 (b) As a part of that schedule, all regulations of the operator of
39 the tow car which in any manner affect the rates charged or to be
40 charged for towing services performed without the prior consent of
41 the owner of the vehicle or the person authorized by the owner to
42 operate the vehicle and all regulations of the operator of the tow car
43 that the operator has adopted to comply with the provisions of NRS
44 706.011 to 706.791, inclusive **H**, and *section 1 of this act*.



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3. No changes may be made in any schedule, including schedules of joint rates, or in the regulations affecting any rates or charges, except upon 30 days' notice to the Authority, and all those changes must be plainly indicated on any new schedules filed in lieu thereof 30 days before the time they are to take effect. The Authority, upon application of any carrier, may prescribe a shorter time within which changes may be made. The 30 days' notice is not applicable when the carrier gives written notice to the Authority 10 days before the effective date of its participation in a tariff bureau's rates and tariffs, provided the rates and tariffs have been previously filed with and approved by the Authority.

4. The Authority may at any time, upon its own motion, investigate any of the rates, fares, charges, regulations, practices and services filed pursuant to this section and, after hearing, by order, make such changes as may be just and reasonable.

5. The Authority may dispense with the hearing on any change requested in rates, fares, charges, regulations, practices or service filed pursuant to this section.

6. All rates, fares, charges, classifications and joint rates, regulations, practices and services fixed by the Authority are in force, and are prima facie lawful, from the date of the order until changed or modified by the Authority, or pursuant to NRS 706.2883.

7. All regulations, practices and service prescribed by the Authority must be enforced and are prima facie reasonable unless suspended or found otherwise in an action brought for the purpose, or until changed or modified by the Authority itself upon satisfactory showing made.

Sec. 1.4. 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 shall, to protect the health, safety and welfare of the public:

(a) Obtain a certificate of public convenience and necessity from the Authority before the operator provides any services other than those services which the operator 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 **[H]**, and *section 1 of this act*.

2. A person who wishes to obtain a certificate of public convenience and necessity to operate a tow car must file an application with the Authority.



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3. The Authority shall issue a certificate of public convenience and necessity to an operator of a tow car 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 the applicant has filed with the Authority 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 the applicant 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. 1.5. NRS 706.4479 is hereby amended to read as follows:

706.4479 1. If a motor vehicle is towed at the request of someone other than the owner, or authorized agent of the owner, of the motor vehicle, the operator *of the tow car* shall, in addition to the requirements set forth in the provisions of chapter 108 of NRS:

(a) Notify the registered and legal owner of the motor vehicle by certified mail not later than 21 days after placing the motor vehicle in storage if the motor vehicle was towed at the request of a law enforcement officer following an accident involving the motor vehicle or not later than 15 days after placing any other vehicle in storage:

- (1) Of the location where the motor vehicle is being stored;
- (2) Whether the storage is inside a locked building, in a secured, fenced area or in an unsecured, open area;
- (3) Of the charge for towing and storage;
- (4) Of the date and time the vehicle was placed in storage;



(5) Of the actions that the registered and legal owner of the vehicle may take to recover the vehicle while incurring the lowest possible liability in accrued assessments, fees, penalties or other charges; and

(6) Of the opportunity to rebut the presumptions set forth in NRS 487.220 and 706.4477.

(b) If the identity of the registered and legal owner is not known or readily available, make every reasonable attempt and use all resources reasonably necessary, as evidenced by written documentation, to obtain the identity of the owner and any other necessary information from the agency charged with the registration of the motor vehicle in this State or any other state within:

(1) Twenty-one days after placing the motor vehicle in storage if the motor vehicle was towed at the request of a law enforcement officer following an accident involving the motor vehicle; or

(2) Fifteen days after placing any other motor vehicle in storage.

➔ The operator shall attempt to notify the owner of the vehicle by certified mail as soon as possible, but in no case later than 15 days after identification of the owner is obtained for any motor vehicle.

2. If an operator includes in the operator's tariff a fee to be charged to the registered and legal owner of a vehicle for the towing and storage of the vehicle, the fee may not be charged:

(a) For more than 21 days after placing the motor vehicle in storage if the motor vehicle was towed at the request of a law enforcement officer following an accident involving the motor vehicle; or

(b) For more than 15 days after placing any other vehicle in storage,

➔ unless the operator complies with the requirements set forth in subsection 1.

3. If a motor vehicle that is placed in storage was towed at the request of a law enforcement officer following an accident involving the motor vehicle, the operator shall not:

(a) Satisfy any lien or impose any administrative fee or processing fee with respect to the motor vehicle for the period ending 4 business days after the date on which the motor vehicle was placed in storage ; or

(b) Impose any fee relating to the auction of the motor vehicle until after the operator complies with the notice requirements set forth in NRS 108.265 to 108.367, inclusive.

Sec. 1.6. NRS 706.4483 is hereby amended to read as follows:

706.4483 1. The Authority shall act upon complaints regarding the failure of an operator of a tow car to comply with the



provisions of NRS 706.011 to 706.791, inclusive ~~H~~, and *section 1 of this act.*

2. In addition to any other remedies that may be available to the Authority to act upon complaints, the Authority may order the release of towed motor vehicles, cargo or personal property upon such terms and conditions as the Authority determines to be appropriate.

Sec. 2. (Deleted by amendment.)

Sec. 3. Chapter 690B of NRS is hereby amended by adding thereto a new section to read as follows:

The owner of a motor vehicle or the authorized agent of the owner who makes a claim under a policy of insurance for damages to the motor vehicle may give his or her consent for:

1. If the insurer provides notice to the owner or the authorized agent of the owner that the motor vehicle is a total loss vehicle as that term is defined in NRS 487.790, the motor vehicle to be towed and placed in storage at the direction and expense of the insurer; or

2. If the insurer provides notice to the owner or the authorized agent of the owner that the motor vehicle is a repairable vehicle, the motor vehicle to be towed to a repair shop designated by the owner or the authorized agent of the owner.

