

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.

~

EXPLANATION – Matter in **bolded italics** is new; matter between brackets **[omitted material]** is material to be omitted.

AN ACT relating to motor carriers; requiring persons who wish to be employed as drivers for certain motor carriers subject to the jurisdiction of the Nevada Transportation Authority to obtain a driver's permit issued by the Authority; providing a fee; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 Existing law provides for the regulation of certain motor carriers in this State
2 by the Nevada Transportation Authority. (NRS 706.011-706.791) This bill requires
3 a person who wishes to be employed or enter into a contract or lease as a driver for
4 certain motor carriers subject to the jurisdiction of the Authority to obtain a driver's
5 permit issued by the Authority. This bill also establishes the requirements and
6 procedures to obtain such a permit.

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, 3 and 4 of this act.
3 **Sec. 2. 1. A person shall not drive a motor vehicle for a**
4 **fully regulated carrier of passengers or a taxicab motor carrier as**
5 **an employee, independent contractor or lessee unless the person**
6 **has a driver's permit issued by the Authority pursuant to this**
7 **section.**



* S B 3 2 0 *

2. The Authority shall issue a driver's permit to each applicant who satisfies the requirements of this section. Before issuing a driver's permit, the Authority shall:

(a) Require the applicant to submit a complete set of his or her fingerprints, which the Authority may forward to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation to ascertain whether the applicant has a criminal record and the nature of any such record, and shall further investigate the applicant's background; and

(b) Require proof that the applicant is employed or under a contract or lease agreement or has an offer of employment, a contract or a lease agreement that is contingent on the applicant's obtaining a driver's permit pursuant to this section and:

(1) Has a valid license issued pursuant to NRS 483.340 which authorizes the applicant to drive in this State any motor vehicle that is within the scope of the employment, contract or lease; or

(2) If the driver is a resident of a state other than Nevada, has a valid license issued by the state in which he or she resides which authorizes the applicant to drive any motor vehicle that is within the scope of the employment, contract or lease.

3. The Authority may refuse to issue a driver's permit if the applicant has been convicted of:

(a) A felony, other than a sexual offense, in this State or any other jurisdiction within the 5 years immediately preceding the date of the application;

(b) A felony involving any sexual offense in this State or any other jurisdiction at any time before the date of the application; or

(c) A violation of NRS 484C.110 or 484C.430 or a law of any other jurisdiction that prohibits the same or similar conduct within the 3 years immediately preceding the date of the application.

4. A driver's permit issued pursuant to this section is valid:

(a) If it is an original permit, for not longer than 1 year; or

(b) If it is a renewal permit, for not longer than 3 years,

but lapses if the driver ceases to be employed by the carrier identified in the application for the original or renewal permit or if the contract or lease expires and the driver enters into a contract or lease with a different carrier. A driver must notify the Authority within 10 days after the lapse of a permit and obtain a new permit pursuant to this section before driving for a different carrier.

5. An applicant shall pay to the Authority:

(a) For an original driver's permit, a fee not to exceed \$50; and



* S B 3 2 0 *

(b) For the renewal of a driver's permit, a fee not to exceed \$50.

6. The provisions of this section:

(a) Apply to a person who is the lessee of a taxicab pursuant to a lease agreement as set forth in NRS 706.473.

(b) Do not apply to a driver who is employed by or under contract with:

(1) The owner or operator of a charter bus which is not a fully regulated carrier;

(2) A person or organization that provides a transportation service for persons with disabilities if the driver is certified as an emergency medical technician, intermediate emergency medical technician or advanced emergency medical technician pursuant to chapter 450B of NRS; or

(3) The owner or operator of any motor vehicle that is not subject to regulation by the Authority pursuant to NRS 706.011 to 706.791, inclusive, and sections 2, 3 and 4 of this act.

Sec. 3. 1. In addition to any other requirements set forth in this chapter, an applicant for the issuance or renewal of a driver's permit pursuant to section 2 of this act shall:

(a) Include the social security number of the applicant in the application submitted to the Authority.

(b) Submit to the Authority the statement prescribed by the Division of Welfare and Supportive Services of the Department of Health and Human Services pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The Authority shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the driver's permit; or

(b) A separate form prescribed by the Authority.

3. A driver's permit may not be issued or renewed by the Authority if the applicant:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that the applicant is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public



1 *agency enforcing the order for the repayment of the amount owed*
2 *pursuant to the order, the Authority shall advise the applicant to*
3 *contact the district attorney or other public agency enforcing the*
4 *order to determine the actions that the applicant may take to*
5 *satisfy the arrearage.*

6 **Sec. 4.** 1. *If the Authority receives a copy of a court order*
7 *issued pursuant to NRS 425.540 that provides for the suspension*
8 *of all professional, occupational and recreational licenses,*
9 *certificates and permits issued to a person who is the holder of a*
10 *driver's permit, the Authority shall deem the permit issued to that*
11 *person to be suspended at the end of the 30th day after the date on*
12 *which the court order was issued unless the Authority receives a*
13 *letter issued to the holder of the driver's permit by the district*
14 *attorney or other public agency pursuant to NRS 425.550 stating*
15 *that the holder of the driver's permit has complied with the*
16 *subpoena or warrant or has satisfied the arrearage pursuant to*
17 *NRS 425.560.*

18 2. *The Authority shall reinstate a driver's permit that has*
19 *been suspended by a district court pursuant to NRS 425.540 if the*
20 *Authority receives a letter issued by the district attorney or other*
21 *public agency pursuant to NRS 425.550 to the person whose*
22 *driver's permit was suspended stating that the person whose*
23 *driver's permit was suspended has complied with the subpoena or*
24 *warrant or has satisfied the arrearage pursuant to NRS 425.560.*

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

26 706.011 As used in NRS 706.011 to 706.791, inclusive, *and*
27 *sections 2, 3 and 4 of this act*, unless the context otherwise requires,
28 the words and terms defined in NRS 706.013 to 706.146, inclusive,
29 have the meanings ascribed to them in those sections.

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

31 706.158 The provisions of NRS 706.011 to 706.791, inclusive,
32 *and sections 2, 3 and 4 of this act* relating to brokers do not apply
33 to any person whom the Authority determines is:

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

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

39 3. A broker of transportation services provided by an entity
40 that is exempt pursuant to NRS 706.745 from the provisions of NRS
41 706.386 or 706.421.

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

43 706.163 The provisions of NRS 706.011 to 706.861, inclusive,
44 *and sections 2, 3 and 4 of this act* do not apply to vehicles leased to
45 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, 3 and 4 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. 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, 3 and 4 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**



1 **sections 2, 3 and 4 of this act** apply without first obtaining a
2 certificate, permit or license, or in violation of the terms thereof;

3 (b) Fails to make any return or report required by the provisions
4 of NRS 706.011 to 706.861, inclusive, **and sections 2, 3 and 4 of**
5 **this act** or by the Authority or the Department pursuant to the
6 provisions of NRS 706.011 to 706.861, inclusive **H**, **and sections**
7 **2, 3 and 4 of this act;**

8 (c) Violates, or procures, aids or abets the violating of, any
9 provision of NRS 706.011 to 706.861, inclusive **H**, **and sections 2,**
10 **3 and 4 of this act;**

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

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

15 (f) Advertises, solicits, proffers bids or otherwise is held out to
16 perform transportation as a common or contract carrier in violation
17 of any of the provisions of NRS 706.011 to 706.861, inclusive **H**,
18 **and sections 2, 3 and 4 of this act;**

19 (g) Advertises as providing:

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

21 (2) Towing services,

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

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

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

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

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

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

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

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



* S B 3 2 0 *

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. 11. 1. This act becomes effective:

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

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

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

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



* S B 3 2 0 *

- 1 (b) Are in arrears in the payment for the support of one or more
- 2 children,
- 3 ➔ are repealed by the Congress of the United States.

