

Amendment No. 31

Senate Amendment to Senate Bill No. 12 (BDR 58-356)

Proposed by: Senate Committee on Transportation**Amends:** Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: No

| 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.

BFG



Date: 3/29/2013

S.B. No. 12—Clarifies the authority of the Nevada Transportation Authority to submit fingerprints to the Federal Bureau of Investigation.
(BDR 58-356)



SENATE BILL NO. 12—COMMITTEE ON TRANSPORTATION

(ON BEHALF OF THE NEVADA
TRANSPORTATION AUTHORITY)

PREFILED DECEMBER 19, 2012

Referred to Committee on Transportation

SUMMARY—Clarifies the authority of the Nevada Transportation Authority to submit fingerprints to the Federal Bureau of Investigation. (BDR 58-356)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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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; requiring certain motor carriers and applicants to operate as motor carriers to submit to the Nevada Transportation Authority a complete set of fingerprints and written permission authorizing the Authority to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes any agency of the State; (1) to request from a person who has applied for a license which the agency has the power to grant or deny a complete set of his or her fingerprints; and (2) to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report. (NRS 239B.010) This bill specifically requires certain motor carriers and applicants to operate as motor carriers to submit to the Nevada Transportation Authority a complete set of fingerprints and written permission authorizing the Authority to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

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

Section 1. NRS 706.391 is hereby amended to read as follows:
706.391 1. Upon the filing of an application for a certificate of public convenience and necessity to operate as a common motor carrier, other than an operator of a tow car, or an application for modification of such a certificate, the Authority shall fix a time and place for a hearing on the application.

2. Except as otherwise provided in subsection 6, the Authority shall grant the certificate or modification if it finds that:

(a) The applicant is financially and operationally fit, willing and able to perform the services of a common motor carrier and that the operation of, and the provision of such services by, the applicant as a common motor carrier will foster sound economic conditions within the applicable industry;

(b) The proposed operation or the proposed modification will be consistent with the legislative policies set forth in NRS 706.151;

(c) The granting of the certificate or modification will not unreasonably and adversely affect other carriers operating in the territory for which the certificate or modification is sought;

(d) The proposed operation or the proposed modification will benefit and protect the safety and convenience of the traveling and shipping public and the motor carrier business in this State;

(e) The proposed operation, or service under the proposed modification, will be provided on a continuous basis;

(f) The market identified by the applicant as the market which the applicant intends to serve will support the proposed operation or proposed modification; and

(g) The applicant has paid all fees and costs related to the application.

3. The Authority shall not find that the potential creation of competition in a territory which may be caused by the granting of the certificate or modification, by itself, will unreasonably and adversely affect other carriers operating in the territory for the purposes of paragraph (c) of subsection 2.

4. In determining whether the applicant is fit to perform the services of a common motor carrier pursuant to paragraph (a) of subsection 2, the Authority shall consider whether the applicant has violated any provision of this chapter or any regulations adopted pursuant thereto.

5. The applicant for the certificate or modification:

(a) *Must submit a complete set of fingerprints of each natural person who is identified by the Authority as a significant principal, partner, officer, manager, member, director or trustee of the applicant and written permission authorizing the Authority to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report;*

(b) Has the burden of proving to the Authority that the proposed operation will meet the requirements of subsection 2; and

~~(b)~~ (c) Must pay the amounts billed to the applicant by the Authority for the costs incurred by the Authority in conducting any investigation regarding the applicant and the application.

6. The provisions of subsections 2 to 5, inclusive, do not apply to an owner or operator of a charter bus. The Authority shall grant the certificate or modification to an owner or operator of a charter bus that is not a fully regulated carrier if the Authority finds that the owner or operator of the charter bus has complied with the provisions of subsection 1 of NRS 706.463 and any applicable regulations of the Authority.

7. The Authority may issue or modify a certificate of public convenience and necessity to operate as a common motor carrier, or issue or modify it for:

(a) The exercise of the privilege sought.

(b) The partial exercise of the privilege sought.

8. The Authority may attach to the certificate such terms and conditions as, in its judgment, the public interest may require.

9. The Authority may dispense with the hearing on the application if, upon the expiration of the time fixed in the notice thereof, no petition to intervene has

1 been filed on behalf of any person who has filed a protest against the granting of the
2 certificate or modification.

3 **Sec. 2.** NRS 706.426 is hereby amended to read as follows:

4 706.426 An application for a permit for a new operation as a contract motor
5 carrier ~~shall be~~ **must**:

6 1. ~~Made~~ **Be made** to the Authority in writing.

7 2. ~~Be in~~ **Be in** such form and be accompanied by such information as the
8 Authority may require.

9 3. ***Include a complete set of the fingerprints of each natural person who is***
10 ***identified by the Authority as a significant principal, partner, officer, manager,***
11 ***member, director or trustee of the applicant and written permission authorizing***
12 ***the Authority to forward the fingerprints to the Central Repository for Nevada***
13 ***Records of Criminal History for submission to the Federal Bureau of***
14 ***Investigation for its report.***

15 **Sec. 3.** NRS 706.4463 is hereby amended to read as follows:

16 706.4463 1. In addition to the other requirements of this chapter, each
17 operator of a tow car shall, to protect the health, safety and welfare of the public:

18 (a) Obtain a certificate of public convenience and necessity from the Authority
19 before the operator provides any services other than those services which the
20 operator provides as a private motor carrier of property pursuant to the provisions
21 of this chapter;

22 (b) Use a tow car of sufficient size and weight which is appropriately equipped
23 to transport safely the vehicle which is being towed; and

24 (c) Comply with the provisions of NRS 706.011 to 706.791, inclusive.

25 2. A person who wishes to obtain a certificate of public convenience and
26 necessity to operate a tow car must ~~file~~ **must**:

27 (a) ***File*** an application with the Authority ~~to~~ **;** and

28 (b) ***Submit to the Authority a complete set of fingerprints of each natural***
29 ***person who is identified by the Authority as a significant principal, partner,***
30 ***officer, manager, member, director or trustee of the applicant and written***
31 ***permission authorizing the Authority to forward the fingerprints to the Central***
32 ***Repository for Nevada Records of Criminal History for submission to the Federal***
33 ***Bureau of Investigation for its report.***

34 3. The Authority shall issue a certificate of public convenience and necessity
35 to an operator of a tow car if it determines that the applicant:

36 (a) Complies with the requirements of paragraphs (b) and (c) of subsection 1;

37 (b) Complies with the requirements of the regulations adopted by the Authority
38 pursuant to the provisions of this chapter;

39 (c) Has provided evidence that the applicant has filed with the Authority a
40 liability insurance policy, a certificate of insurance or a bond of a surety and
41 bonding company or other surety required for every operator of a tow car pursuant
42 to the provisions of NRS 706.291; and

43 (d) Has provided evidence that the applicant has filed with the Authority
44 schedules and tariffs pursuant to subsection 2 of NRS 706.321.

45 4. An applicant for a certificate has the burden of proving to the Authority
46 that the proposed operation will meet the requirements of subsection 3.

47 5. The Authority may hold a hearing to determine whether an applicant is
48 entitled to a certificate only if:

49 (a) Upon the expiration of the time fixed in the notice that an application for a
50 certificate of public convenience and necessity is pending, a petition to intervene
51 has been granted by the Authority; or

52 (b) The Authority finds that after reviewing the information provided by the
53 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. 4. NRS 706.4464 is hereby amended to read as follows:

706.4464 1. An operator of a tow car who is issued a certificate of public convenience and necessity may transfer it to another operator of a tow car qualified pursuant to the provisions of NRS 706.011 to 706.791, inclusive, but no such transfer is valid for any purpose until a joint application to make the transfer is made to the Authority by the transferor and the transferee, and the Authority has authorized the substitution of the transferee for the transferor. *The application must include a complete set of fingerprints of each natural person who is identified by the Authority as a significant principal, partner, officer, manager, member, director or trustee of the transferee and written permission authorizing the Authority to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.* No transfer of stock of a corporate operator of a tow car subject to the jurisdiction of the Authority is valid without the prior approval of the Authority if the effect of the transfer would be to change the corporate control of the operator of a tow car or if a transfer of 15 percent or more of the common stock of the operator of a tow car is proposed.

2. The Authority shall approve an application filed with it pursuant to subsection 1 if it determines that the transferee:

(a) Complies with the provisions of NRS 706.011 to 706.791, inclusive, and the regulations adopted by the Authority pursuant to those provisions;

(b) Uses equipment that is in compliance with the regulations adopted by the Authority;

(c) Has provided evidence that the transferee 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 transferee has filed with the Authority schedules and tariffs pursuant to NRS 706.321 which contain rates and charges and the terms and conditions that the operator of the tow car requires to perform towing services without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle which do not exceed the rates and charges that the transferor was authorized to assess for the same services.

3. The Authority may hold a hearing concerning an application submitted pursuant to this section only if:

(a) Upon the expiration of the time fixed in the notice that an application for transfer of 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 2.

4. The Authority shall not hold a hearing on an application submitted pursuant to this section if the application is made to transfer the certificate of public convenience and necessity from a natural person or partners to a corporation whose controlling stockholders will be substantially the same person or partners.

5. The approval by the Authority of an application for transfer of a certificate of public convenience and necessity of an operator of a tow car is not valid after the expiration of the term for the transferred certificate.

1 **Sec. 5.** NRS 706.463 is hereby amended to read as follows:

2 706.463 Each owner or operator of a charter bus which is not a fully regulated
3 carrier shall:

4 1. Comply with the provisions of this chapter and any regulations adopted by
5 the Authority pursuant to this chapter relating to safety;

6 2. Submit evidence satisfactory to the Authority that the owner or operator
7 has obtained a liability insurance policy, certificate of insurance, bond of a surety
8 company or other surety in the time, amount and form required by the Authority for
9 a common motor carrier of passengers pursuant to NRS 706.291; ~~and~~

10 3. *Submit a complete set of the fingerprints of each natural person who is*
11 *identified by the Authority as a significant principal, partner, officer, manager,*
12 *member, director or trustee of the owner or operator and written permission*
13 *authorizing the Authority to forward the fingerprints to the Central Repository*
14 *for Nevada Records of Criminal History for submission to the Federal Bureau of*
15 *Investigation for its report; and*

16 4. Not later than 5 days before beginning operation in this State, submit to the
17 Authority a copy of its schedule or tariff setting forth the rates established by the
18 owner or operator. If the owner or operator intends to make any changes to its
19 schedule or tariff, the owner or operator shall submit an updated copy of the
20 schedule or tariff to the Authority not later than 5 days before the date on which
21 those changes are to become effective. Notwithstanding any provision of this
22 chapter to the contrary, schedules and tariffs submitted by the owner or operator to
23 the Authority pursuant to this section, and the rates set forth in those schedules and
24 tariffs, are not subject to hearing or approval by the Authority.

25 **Sec. 6.** NRS 706.6411 is hereby amended to read as follows:

26 706.6411 1. All motor carriers, other than operators of tow cars, regulated
27 pursuant to NRS 706.011 to 706.791, inclusive, to whom the certificates, permits
28 and licenses provided by NRS 706.011 to 706.791, inclusive, have been issued may
29 transfer them to another carrier, other than an operator of a tow car, qualified
30 pursuant to NRS 706.011 to 706.791, inclusive, but no such transfer is valid for any
31 purpose until a joint application to make the transfer has been made to the
32 Authority by the transferor and the transferee, and the Authority has authorized the
33 substitution of the transferee for the transferor. *The application must include a*
34 *complete set of fingerprints of each natural person who is identified by the*
35 *Authority as a significant principal, partner, officer, manager, member, director*
36 *or trustee of the transferee and written permission authorizing the Authority to*
37 *forward the fingerprints to the Central Repository for Nevada Records of*
38 *Criminal History for submission to the Federal Bureau of Investigation for its*
39 *report.* No transfer of stock of a corporate motor carrier subject to the jurisdiction
40 of the Authority is valid without the prior approval of the Authority if the effect of
41 the transfer would be to change the corporate control of the carrier or if a transfer of
42 15 percent or more of the common stock of the carrier is proposed.

43 2. Except as otherwise provided in subsection 3, the Authority shall fix a time
44 and place for a hearing to be held unless the application is made to transfer the
45 certificate from a natural person or partners to a corporation whose controlling
46 stockholders will be substantially the same person or partners, and may hold a
47 hearing to consider such an application.

48 3. The Authority may also dispense with the hearing on the joint application
49 to transfer if, upon the expiration of the time fixed in the notice thereof, no protest
50 against the transfer of the certificate or permit has been filed by or in behalf of any
51 interested person.

1 4. In determining whether or not the transfer of a certificate of public
2 convenience and necessity or a permit to act as a contract motor carrier should be
3 authorized, the Authority shall consider:

4 (a) The service which has been performed by the transferor and that which may
5 be performed by the transferee.

6 (b) Other authorized facilities for transportation in the territory for which the
7 transfer is sought.

8 (c) Whether or not the transferee is fit, willing and able to perform the services
9 of a common or contract motor carrier by vehicle and whether or not the proposed
10 operation would be consistent with the legislative policy set forth in NRS 706.151.

11 5. Upon a transfer made pursuant to this section, the Authority may make
12 such amendments, restrictions or modifications in a certificate or permit as the
13 public interest may require.

14 6. No transfer is valid beyond the life of the certificate, permit or license
15 transferred.

16 Sec. 7. ~~[This act becomes effective upon passage and approval.]~~ **(Deleted by**
17 **amendment.)**