

Amendment No. 862

Assembly Amendment to Senate Bill No. 210 Second Reprint (BDR 58-949)

Proposed by: Assemblyman Carrillo

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

Adoption of this amendment will MAINTAIN the 2/3s majority vote requirement for final passage of S.B. 210 R2 (§ 2).

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.

MSM/WLK



Date: 5/24/2013

S.B. No. 210—Revises provisions governing certain motor carriers. (BDR 58-949)



SENATE BILL NO. 210—SENATOR CEGAVSKE

MARCH 4, 2013

Referred to Committee on Transportation

SUMMARY—Revises provisions governing certain motor carriers. (BDR 58-949)

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; requiring persons who wish to be employed as drivers for certain motor carriers to obtain a driver's permit issued by the Nevada Transportation Authority; imposing a fee for such a permit; providing a penalty; 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) This bill requires a person who wishes to be employed or enter into a contract or lease as a driver for certain motor carriers to obtain a driver's permit issued by the Authority. This bill also establishes the requirements and procedures to obtain such a permit.

Under existing law, the provision of "charter service by bus" is regulated by the Nevada Transportation Authority and a person wishing to provide intrastate charter service by bus is required to obtain a certificate of public convenience and necessity from the Authority, and is prohibited from engaging in certain acts. (NAC 706.034, 706.1377, 706.352, 706.355) The regulation of charter service by bus in the Nevada Administrative Code is not affected by the provisions of this bill requiring certain drivers to obtain a driver's permit issued by the Authority.

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, 3 and 4 of this act.

Sec. 2. *1. A person shall not drive a charter bus ~~or~~ for the purposes of charter bus transportation, a motor vehicle for a fully regulated carrier of passengers or a taxicab motor carrier as an employee, independent contractor or lessee unless the person has been issued a driver's permit by the Authority pursuant to this section.*

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 shall 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 may 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 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:

(a) The applicant has been convicted of:

(1) 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;

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

(3) 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.

(b) After further investigation into the applicant's background, if any, the Authority determines that the issuance of the driver's permit would be detrimental to public health, welfare or safety.

4. A driver's permit issued pursuant to this section is valid 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) A fee for the processing of fingerprints which is to be established by the Authority and which may not exceed the fee charged by the Central Repository for Nevada Records of Criminal History and the Federal Bureau of Investigation for processing the fingerprints.

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

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

6. As used in this section, "charter bus transportation" means transportation by bus of a group of persons who, pursuant to a common purpose and under a single contract, at a fixed charge for the motor vehicle, have acquired the exclusive use of the motor vehicle to travel together under an itinerary either specified in advance or modified after having left the place of origin. The term does not include:

(a) The transportation of passengers and their baggage in the same vehicle for a per capita charge between airports or between an airport and points and places in this State;

(b) The transportation at a per capita or an hourly rate of passengers to various points of interest for the purpose of sight-seeing or visiting those points of interest where a narrated tour is presented to the passengers; or

(c) The transportation of persons who have acquired the use of a vehicle for a special event between definite points of origin and destination, at a per capita rate.

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

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

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

1 **Sec. 5.** NRS 706.011 is hereby amended to read as follows:
2 706.011 As used in NRS 706.011 to 706.791, inclusive, *and sections 2, 3 and*
3 *4 of this act*, unless the context otherwise requires, the words and terms defined in
4 NRS 706.013 to 706.146, inclusive, have the meanings ascribed to them in those
5 sections.

6 **Sec. 6.** NRS 706.158 is hereby amended to read as follows:
7 706.158 The provisions of NRS 706.011 to 706.791, inclusive, *and sections*
8 *2, 3 and 4 of this act* relating to brokers do not apply to any person whom the
9 Authority determines is:

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

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

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

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

18 706.163 The provisions of NRS 706.011 to 706.861, inclusive, *and sections*
19 *2, 3 and 4 of this act* do not apply to vehicles leased to or owned by:

20 1. The Federal Government or any instrumentality thereof.

21 2. Any state or a political subdivision thereof.

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

23 706.2885 1. A certificate of public convenience and necessity, permit or
24 license issued in accordance with this chapter is not a franchise and may be
25 revoked.

26 2. The Authority may at any time, for good cause shown, after investigation
27 and hearing and upon 5 days' written notice to the grantee, suspend any certificate,
28 permit or license issued in accordance with the provisions of NRS 706.011 to
29 706.791, inclusive, *and sections 2, 3 and 4 of this act* for a period not to exceed 60
30 days.

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

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

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

40 706.736 1. Except as otherwise provided in subsection 2, the provisions of
41 NRS 706.011 to 706.791, inclusive, *and sections 2, 3 and 4 of this act* do not apply
42 to:

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

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

50 (c) Special mobile equipment.

51 (d) The vehicle of any person, when that vehicle is being used in the
52 production of motion pictures, including films to be shown in theaters and on

1 television, industrial training and educational films, commercials for television and
2 video discs and tapes.

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

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

7 (g) The transportation by a private school of persons or property in connection
8 with the operation of the school or related school activities, so long as the vehicle
9 that is used to transport the persons or property does not have a gross vehicle
10 weight rating of 26,001 pounds or more and is not registered pursuant to NRS
11 706.801 to 706.861, inclusive.

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

14 (a) The provisions of paragraph (d) of subsection 1 of NRS 706.171 and NRS
15 706.235 to 706.256, inclusive, 706.281, 706.457 and 706.458.

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

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

19 3. The provisions of NRS 706.311 to 706.453, inclusive, 706.471, 706.473,
20 706.475 and 706.6411 which authorize the Authority to issue:

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

24 (b) Certificates of public convenience and necessity to operators of tow cars
25 and to regulate rates for towing services performed without the prior consent of the
26 owner of the vehicle or the person authorized by the owner to operate the vehicle
27 apply to operators of tow cars.

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

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

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

36 706.756 1. Except as otherwise provided in subsection 2, any person who:

37 (a) Operates a vehicle or causes it to be operated in any carriage to which the
38 provisions of NRS 706.011 to 706.861, inclusive, *and sections 2, 3 and 4 of this*
39 *act* apply without first obtaining a certificate, permit or license, or in violation of
40 the terms thereof;

41 (b) Fails to make any return or report required by the provisions of NRS
42 706.011 to 706.861, inclusive, *and sections 2, 3 and 4 of this act* or by the
43 Authority or the Department pursuant to the provisions of NRS 706.011 to 706.861,
44 inclusive *§, and sections 2, 3 and 4 of this act;*

45 (c) Violates, or procures, aids or abets the violating of, any provision of NRS
46 706.011 to 706.861, inclusive *§, and sections 2, 3 and 4 of this act;*

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

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

51 (f) Advertises, solicits, proffers bids or otherwise is held out to perform
52 transportation as a common or contract carrier in violation of any of the provisions
53 of NRS 706.011 to 706.861, inclusive *§, and sections 2, 3 and 4 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. 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 January 1, 2014, 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

1 which the state has authority to withhold or suspend, or to restrict the use of
2 professional, occupational and recreational licenses of persons who:

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

6 (b) Are in arrears in the payment for the support of one or more children,
7 ➤ are repealed by the Congress of the United States.