

SENATE BILL NO. 263—SENATOR CEGAVSKE

MARCH 15, 2013

Referred to Committee on Transportation

SUMMARY—Revises provisions relating to motor carriers.
(BDR 58-950)

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; revising the scope of transportation services that a contract motor carrier can provide; prohibiting the Nevada Transportation Authority from granting a certificate of public convenience and necessity to operate as a common motor carrier to a person who holds a permit to act as a contract motor carrier under certain circumstances; prohibiting the Authority from issuing a permit to act as a contract motor carrier to a person who holds a certificate of public convenience and necessity to operate as a common motor carrier; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that a permit to act as a contract motor carrier authorizes a motor carrier to transport passengers and household goods under contract. (NRS 706.051, 706.421) **Section 1** of this bill revises the definition of the term “contract motor carrier” to limit the circumstances under which a contract motor carrier is authorized to transport passengers.

Sections 2 and 3 of this bill prohibit a motor carrier from concurrently operating as a common motor carrier and a contract motor carrier by prohibiting the Nevada Transportation Authority from granting: (1) a certificate of public convenience and necessity to operate as a common motor carrier to a contract motor carrier; and (2) a permit to act as a contract motor carrier to a common motor carrier.

Section 6 of this bill requires any person who holds a certificate of public convenience and necessity to operate as a common motor carrier and a permit to act as a contract carrier to elect on or before September 30, 2013, whether to continue after that date to operate as a common motor carrier or a contract motor carrier.



16 **Section 6** requires such a person to provide notice of the election to the Authority
17 and to surrender his or her certificate or permit, as applicable, to the Authority.

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

1 **Section 1.** NRS 706.051 is hereby amended to read as follows:
2 706.051 **1.** "Contract motor carrier" means any person or
3 operator engaged in transportation by motor vehicle of ~~passengers~~
4 ~~or household~~ :

5 **(a) Household** goods for compensation pursuant to continuing
6 contracts with one person or a limited number of persons ~~+~~
7 ~~1. For~~ for the furnishing of transportation services through the
8 assignment of motor vehicles for a continuing period of time to the
9 exclusive use of each person served;

10 ~~2. For~~ or

11 **(b) Passengers for compensation pursuant to continuing**
12 **contracts with an employer for** the furnishing of transportation
13 services ~~designed to meet the distinct need of each individual~~
14 ~~customer; and~~

15 ~~3. Not~~ to the employer's officers, directors, employees,
16 agents, independent contractors and persons accompanying and
17 traveling with those officers, directors, employees, agents and
18 independent contractors, when traveling between the employer's
19 place of business or job or work site and any area that the
20 employer has designated for the use of parking by employees.

21 **2. The term does not include a person or operator** operating
22 as a common motor carrier of passengers or property.

23 **Sec. 2.** NRS 706.391 is hereby amended to read as follows:

24 706.391 **1.** Upon the filing of an application for a certificate
25 of public convenience and necessity to operate as a common motor
26 carrier, other than an operator of a tow car, or an application for
27 modification of such a certificate, the Authority shall fix a time and
28 place for a hearing on the application.

29 **2.** Except as otherwise provided in ~~subsection 6~~ **subsections**
30 **3 and 7**, the Authority shall grant the certificate or modification if it
31 finds that:

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

37 **(b)** The proposed operation or the proposed modification will be
38 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 grant a certificate of public convenience and necessity to operate as a common motor carrier to an applicant that holds a permit to act as a contract motor carrier.

4. 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.

~~14-1~~ **5.** 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.

~~15-1~~ **6.** The applicant for the certificate or modification:

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

(b) 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.

~~16-1~~ **7.** The provisions of subsections 2 to ~~15-1~~ **6**, 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.

~~17-1~~ **8.** 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.



~~18-1~~ 9. The Authority may attach to the certificate such terms and conditions as, in its judgment, the public interest may require.

~~19-1~~ 10. 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 been filed on behalf of any person who has filed a protest against the granting of the certificate or modification.

Sec. 3. NRS 706.421 is hereby amended to read as follows:

706.421 It is unlawful for any contract motor carrier to act as such within this State in intrastate commerce without first having obtained *from the Authority* a permit therefor.

Sec. 4. NRS 706.431 is hereby amended to read as follows:

706.431 1. A permit may be issued to any applicant therefor, authorizing in whole or in part the operation covered by the application, if it appears from the application or from any hearing held thereon that:

(a) The applicant is fit, willing and able properly to perform the service of a contract motor carrier and to conform to all provisions of NRS 706.011 to 706.791, inclusive, and the regulations adopted thereunder; and

(b) The proposed operation will be consistent with the public interest and will not operate to defeat the legislative policy set forth in NRS 706.151.

2. If the Authority proceeds with a hearing on an application for a permit, the Authority shall fix a time and place for the hearing.

3. The Authority may dispense with the hearing, if any, on the application if, upon the expiration of the time fixed in the notice thereof, no petition to intervene has been filed on behalf of any person who has filed a protest against the granting of the permit.

4. An application must be denied if the provisions of subsection 1 are not met.

5. *The Authority shall not issue a permit to act as a contract motor carrier to an applicant that holds a certificate of public convenience and necessity to operate as a common motor carrier.*

6. The Authority shall revoke or suspend pursuant to the provisions of this chapter the permit of a contract motor carrier who has failed to file the annual report required in NRS 706.167 within 60 days after the report is due.

~~16-1~~ 7. The Authority shall adopt regulations providing for a procedure by which any contract entered into by a contract motor carrier after the contract motor carrier has been issued a permit pursuant to this section may be approved by the Authority without giving notice required by statute or by a regulation of the Authority.



Sec. 5. NRS 422.2705 is hereby amended to read as follows:

422.2705 1. The Department shall, to the extent authorized by federal law, contract with a common motor carrier ~~[- a contract motor carrier]~~ or a broker for the provision of transportation services to recipients of Medicaid or recipients of services pursuant to the Children's Health Insurance Program traveling to and returning from providers of services under the State Plan for Medicaid or the Children's Health Insurance Program.

2. The Director may adopt regulations concerning the qualifications of persons who may contract with the Department to provide transportation services pursuant to this section.

3. The Director shall:

(a) Require each motor carrier that has contracted with the Department to provide transportation services pursuant to this section to submit proof to the Department of a liability insurance policy, certificate of insurance or surety which is substantially equivalent in form to and is in the same amount or in a greater amount than the policy, certificate or surety required by the Department of Motor Vehicles pursuant to NRS 706.291 for a similarly situated motor carrier; and

(b) Establish a program, with the assistance of the Nevada Transportation Authority of the Department of Business and Industry, to inspect the vehicles which are used to provide transportation services pursuant to this section to ensure that the vehicles and their operation are safe.

4. As used in this section:

(a) "Broker" has the meaning ascribed to it in NRS 706.021.

(b) "Common motor carrier" has the meaning ascribed to it in NRS 706.036.

~~[(c) "Contract motor carrier" has the meaning ascribed to it in NRS 706.051.]~~

Sec. 6. On or before June 30, 2013, a holder of a certificate of public convenience and necessity to operate as a common motor carrier and a permit to act as a contract motor carrier who:

1. Wishes to operate as a common motor carrier after June 30, 2013, must:

(a) Notify the Nevada Transportation Authority of that election; and

(b) Surrender to the Authority his or her permit to act as a contract motor carrier.

2. Wishes to act as a contract motor carrier after June 30, 2013, must:

(a) Notify the Nevada Transportation Authority of that election; and



1 (b) Surrender to the Authority his or her certificate of public
2 convenience and necessity to operate as a common motor carrier.

3 **Sec. 7.** 1. This section and section 6 of this act become
4 effective upon passage and approval.

5 2. Sections 1 to 5, inclusive, of this act become effective:

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

9 (b) On July 1, 2013, for all other purposes.

