

SENATE BILL NO. 456—COMMITTEE ON TRANSPORTATION

MARCH 25, 2013

Referred to Committee on Transportation

SUMMARY—Revises provisions relating to operators of tow cars.
(BDR 58-1089)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
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 tow cars; authorizing certain insurance companies to designate vehicle storage lots; requiring operators of tow cars to tow certain vehicles to designated vehicle storage lots under certain circumstances; requiring certain vehicle storage lots to pay a fee under certain circumstances; revising certain provisions relating to operators of tow cars; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 **Section 1** of this bill authorizes an insurance company to designate certain
2 vehicle storage lots to which certain vehicles insured by the insurance company
3 must be towed under certain circumstances. **Section 1** requires a law enforcement
4 officer to make a good faith effort to determine the identity of the insurance
5 company that provides coverage for the owner of such a vehicle and to make a
6 good faith effort to communicate that information to the operator of the tow car
7 before the vehicle is towed. **Section 1** also requires the owners of designated
8 vehicle storage lots to pay a fee, determined by the Nevada Transportation
9 Authority, to the law enforcement agency whose officer requested the vehicle to be
10 towed. **Section 1** further provides that the amendatory provisions of this bill apply
11 only to a county whose population is 700,000 or more (currently Clark County).



* S B 4 5 6 *

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. An insurance company may designate a vehicle storage lot to which all inoperable vehicles or stolen vehicles that have been recovered and which are insured by that insurance company must be towed. The designation of a vehicle storage lot must be provided in writing by the insurance company, its representative or the owner or operator of the vehicle storage lot to all providers of towing services that have obtained a certificate of public convenience and necessity and operate in the same geographical area in which the designated vehicle storage lot is situated.

2. If a law enforcement officer requests that an operator of a tow car tow a vehicle that is inoperable because of an accident or a vehicle which was recovered after having been stolen and is not otherwise subject to impoundment, the law enforcement officer shall make a good faith effort to determine the identity of the insurance company that provides coverage for the owner of the vehicle. If the law enforcement officer determines the identity of the insurance company, he or she shall inform the operator of the tow car of the identity of the insurance company. If the operator of the tow car:

(a) Is informed by a law enforcement officer of the identity of the insurance company that provides coverage for the owner of the vehicle; or

(b) Otherwise determines the identity of the insurance company that provides coverage for the owner of the vehicle, and the insurance company has designated a vehicle storage lot pursuant to subsection 1, the operator of the tow car shall tow the vehicle to the designated vehicle storage lot unless the owner of the vehicle or a representative of the insurance company has directed otherwise.

3. If an operator of a tow car fails to tow a vehicle to the designated vehicle storage lot pursuant to subsection 2, the operator of the tow car shall:

(a) Forfeit the charge for towing and storage of the vehicle; and

(b) Tow the vehicle free of charge to the vehicle storage lot designated by the insurance company or its representative not later than 24 hours after receiving a demand, which must be made in writing or by electronic mail, from the insurance company or its representative.



1 4. The owners of a vehicle storage lot designated by an
2 insurance company pursuant to subsection 1 shall agree in writing
3 to:

4 (a) Indemnify the relevant law enforcement agencies and their
5 officers, employees, agents and representatives from any liability
6 relating to the towing of a vehicle insured by the designating
7 insurance company and to the storing of the vehicle at the vehicle
8 storage lot if the law enforcement officer who requested the towing
9 of the vehicle made a good faith effort to comply with the
10 provisions of subsection 2; and

11 (b) Pay the fee determined by the Authority pursuant to
12 subsection 8 for each vehicle towed to the vehicle storage lot
13 pursuant to this section for which the designating insurance
14 company provides coverage for the owner of the vehicle. The fee
15 must be paid to the law enforcement agency whose officer
16 requested the vehicle be towed.

17 5. A vehicle storage lot must:

18 (a) Except as otherwise provided in subsection 6, comply with
19 all applicable requirements imposed pursuant to NRS 706.4485 on
20 an operator of a tow car; and

21 (b) Comply with all applicable local laws and ordinances,
22 including, without limitation, local laws and ordinances relating to
23 business licenses, zoning, building and fire codes, parking, paving,
24 lights and security.

25 6. A vehicle storage lot is not required to assess the rates and
26 charges that have been approved by the Authority for the storage
27 of a vehicle, but may not assess a rate or charge in excess of those
28 approved rates and charges. An operator of a tow car who tows a
29 vehicle to a vehicle storage lot pursuant to this section shall assess
30 the rates and charges approved by the Authority for towing the
31 vehicle.

32 7. Before designating a vehicle storage lot pursuant to
33 subsection 1, an insurance company must obtain the approval of
34 the Authority. The Authority shall approve the designation if the
35 Authority determines that the vehicle storage lot has:

36 (a) Executed an indemnification agreement that meets the
37 requirements of paragraph (a) of subsection 4;

38 (b) Agreed to pay the fee approved by the Authority for each
39 vehicle towed to the lot pursuant to paragraph (b) of subsection 4;

40 (c) Satisfied the requirements of subsection 5; and

41 (d) Otherwise satisfied the requirements of this section.

42 8. The Authority shall determine the amount of the fee to be
43 paid by a vehicle storage lot pursuant to paragraph (b) of
44 subsection 4.



1 **9. The provisions of this section apply only to a county whose**
2 **population is 700,000 or more.**

3 **10. As used in this section:**

4 **(a) "Boat" means any vessel or other watercraft, other than a**
5 **seaplane, used or capable of being used as a means of**
6 **transportation on the water.**

7 **(b) "Vehicle" has the meaning ascribed to it in NRS 706.146**
8 **and includes all terrain vehicles and boats.**

9 **(c) "Vehicle storage lot" means a business which, for a fee,**
10 **stores inoperable vehicles and recovered stolen vehicles.**

11 **Sec. 2.** NRS 706.011 is hereby amended to read as follows:

12 706.011 As used in NRS 706.011 to 706.791, inclusive, **and**
13 **section 1 of this act**, unless the context otherwise requires, the
14 words and terms defined in NRS 706.013 to 706.146, inclusive,
15 have the meanings ascribed to them in those sections.

16 **Sec. 3.** NRS 706.163 is hereby amended to read as follows:

17 706.163 The provisions of NRS 706.011 to 706.861, inclusive,
18 **and section 1 of this act** do not apply to vehicles leased to or owned
19 by:

20 1. The Federal Government or any instrumentality thereof.

21 2. Any state or a political subdivision thereof.

22 **Sec. 4.** NRS 706.166 is hereby amended to read as follows:

23 706.166 The Authority shall:

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

26 (a) Every fully regulated carrier and broker of regulated services
27 in this State in all matters directly related to those activities of the
28 motor carrier and broker actually necessary for the transportation of
29 persons or property, including the handling and storage of that
30 property, over and along the highways.

31 (b) Every operator of a tow car concerning the rates and charges
32 assessed for towing services performed without the prior consent of
33 the operator of the vehicle or the person authorized by the owner to
34 operate the vehicle and pursuant to the provisions of NRS 706.011
35 to 706.791, inclusive **†**, **and section 1 of this act.**

36 2. Supervise and regulate the storage of household goods and
37 effects in warehouses and the operation and maintenance of such
38 warehouses in accordance with the provisions of this chapter and
39 chapter 712 of NRS.

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

43 (a) Providing training in safety;

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



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

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

(a) Fares of fully regulated carriers;

(b) All rates of fully regulated carriers and rates of operators of tow cars 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;

(c) Classifications;

(d) Divisions;

(e) Allowances; and

(f) All charges of fully regulated carriers and charges of operators of tow cars 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, including charges between carriers and compensation paid or received for the use of facilities and equipment.

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

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

Sec. 5. NRS 706.286 is hereby amended to read as follows:

706.286 1. When a complaint is made against any fully regulated carrier or operator of a tow car by any person, that:

(a) Any of the rates, tolls, charges or schedules, or any joint rate or rates assessed by any fully regulated carrier or by any operator of a tow car 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 are in any respect unreasonable or unjustly discriminatory;

(b) Any of the provisions of NRS 706.445 to 706.453, inclusive, *and section 1 of this act* have been violated;

(c) Any regulation, measurement, practice or act directly relating to the transportation of persons or property, including the handling and storage of that property, is, in any respect, unreasonable, insufficient or unjustly discriminatory; or

(d) Any service is inadequate,

➔ the Authority shall investigate the complaint. After receiving the complaint, the Authority shall give a copy of it to the carrier or operator of a tow car against whom the complaint is made. Within a reasonable time thereafter, the carrier or operator of a tow car shall provide the Authority with its written response to the complaint according to the regulations of the Authority.



2. If the Authority determines that probable cause exists for the complaint, it shall order a hearing thereof, give notice of the hearing and conduct the hearing as it would any other hearing.

3. No order affecting a rate, toll, charge, schedule, regulation, measurement, practice or act complained of may be entered without a formal hearing unless the hearing is dispensed with as provided in NRS 706.2865.

Sec. 6. NRS 706.321 is hereby amended to read as follows:

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

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

(1) Be open to public inspection; and

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

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

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

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

(1) Be open to public inspection; and

(2) Include all rates and charges 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 which the operator has established and which are in force at the time of filing.

(b) As a part of that schedule, all regulations of the operator of the tow car which in any manner affect the rates charged or to be charged 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 and all regulations of the operator of the tow car that the operator has adopted to comply with the provisions of NRS 706.011 to 706.791, inclusive **H**, and section 1 of this act.

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



1 applicable when the carrier gives written notice to the Authority 10
2 days before the effective date of its participation in a tariff bureau's
3 rates and tariffs, provided the rates and tariffs have been previously
4 filed with and approved by the Authority.

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

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

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

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

22 **Sec. 7.** NRS 706.4463 is hereby amended to read as follows:

23 706.4463 1. In addition to the other requirements of this
24 chapter, each operator of a tow car shall, to protect the health, safety
25 and welfare of the public:

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

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

33 (c) Comply with the provisions of NRS 706.011 to 706.791,
34 inclusive **H**, *and section 1 of this act.*

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

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

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

43 (b) Complies with the requirements of the regulations adopted
44 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. 8. 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, *and section 1 of this act*, 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. 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 section 1 of this act* 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



1 every operator of a tow car pursuant to the provisions of NRS
2 706.291; and

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

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

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

17 (b) The Authority finds that after reviewing the information
18 provided by the applicant and inspecting the operations of the
19 applicant, it cannot make a determination as to whether the applicant
20 has complied with the requirements of subsection 2.

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

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

30 **Sec. 9.** NRS 706.4483 is hereby amended to read as follows:

31 706.4483 1. The Authority shall act upon complaints
32 regarding the failure of an operator of a tow car to comply with the
33 provisions of NRS 706.011 to 706.791, inclusive **H**, and *section 1*
34 *of this act.*

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

40 **Sec. 10.** NRS 706.4485 is hereby amended to read as follows:

41 706.4485 1. A law enforcement agency that maintains and
42 uses a list of operators of tow cars which are called by that agency
43 to provide towing shall not include an operator of a tow car on the
44 list unless the operator:



(a) Holds a certificate of public convenience and necessity issued by the Authority.

(b) Complies with all applicable provisions of this chapter and chapters 482 and 484A to 484E, inclusive, of NRS.

(c) Agrees to respond in a timely manner to requests for towing made by the agency.

(d) Maintains adequate, accessible and secure storage within the State of Nevada for any vehicle that is towed.

(e) Complies with all standards the law enforcement agency may adopt to protect the health, safety and welfare of the public.

(f) ~~Assesses~~ *Except as otherwise provided in section 1 of this act, assesses* only rates and charges that have been approved by the Authority 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.

2. The Authority shall not require that an operator of a tow car charge the same rate to law enforcement agencies 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 that the operator charges to other persons for such services.

3. Except as otherwise provided in this subsection, if an operator of a tow car is included on a list of operators of tow cars that is maintained and used by the Nevada Highway Patrol pursuant to this section, the Nevada Highway Patrol shall not remove the operator of the tow car from the list, or restrict the operator's use pursuant thereto, solely on the ground that the operator is insured under the same policy of insurance as one other operator of a tow car who is included on the list and operates in the same geographical area. An operator of a tow car is not eligible for inclusion on the list if the operator is insured under the same policy of insurance as two or more other operators of tow cars who are included on the list and operate in the same geographical area.

Sec. 11. NRS 706.781 is hereby amended to read as follows:

706.781 In addition to all the other remedies provided by NRS 706.011 to 706.861, inclusive, *and section 1 of this act*, for the prevention and punishment of any violation of the provisions thereof and of all orders of the Authority or the Department, the Authority or the Department may compel compliance with the provisions of NRS 706.011 to 706.861, inclusive, *and section 1 of this act*, and with the orders of the Authority or the Department by proceedings in mandamus, injunction or by other civil remedies.

Sec. 12. This act becomes effective upon passage and approval.

