

Amendment No. 810

Assembly Amendment to Senate Bill No. 376	(BDR 58-632)
<b>Proposed by:</b> Assembly Committee on Transportation	
<b>Amends:</b> 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) variations of green bold underlining is language proposed to be added 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 proposed to be retained in this amendment.



## SENATE BILL NO. 376—SENATOR SETTELMAYER

MARCH 17, 2015

Referred to Committee on Transportation

SUMMARY—Revises provisions relating to motor carriers. (BDR 58-632)

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 provisions concerning an appeal of certain decisions of the Nevada Transportation Authority; revising provisions concerning an appeal of a final decision of the Taxicab Authority; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Under existing law, any person who is aggrieved by a final decision of the Nevada Transportation Authority in an administrative hearing is entitled to judicial review. (NRS 233B.130, 706.2885, 706.771, 706.775) **Section 1** of this bill provides that any decision or action by the Nevada Transportation Authority which has the effect of substantially impairing, restricting or rescinding the ability or authorization of a fully regulated carrier to operate in this State or which refuses an applicant the ability or authorization to operate in this State as a fully regulated carrier is a final decision, and may be appealed directly to a court of competent jurisdiction for judicial review.

The Nevada Transportation Authority has regulatory authority over taxicab motor carriers in any county whose population is less than 700,000 (currently all counties except for Clark). (NRS 706.151, 706.881) In any county whose population is 700,000 or more (currently Clark County), the Taxicab Authority has regulatory authority over taxicab motor carriers. (NRS 706.881) Any person who is aggrieved by a final decision of the Taxicab Authority must appeal to the Nevada Transportation Authority. (NRS 706.8819) **Sections 3 and 8** of this bill provide that any person aggrieved by a final decision of the Taxicab Authority is entitled to judicial review, rather than requiring such a person to appeal to the Nevada Transportation 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 a new section to read as follows:

***Any decision or action by the Authority which:***

***1. Has the effect of substantially impairing, restricting or rescinding the ability or authorization of a fully regulated motor carrier to operate in this State;***  
***or***

2. *Refuses an applicant the ability or authorization to operate as a fully regulated motor carrier in this State,*  
↪ *is a final decision for the purpose of chapter 233B of NRS and may be appealed directly to a court of competent jurisdiction for judicial review.*

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

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

Sec. 3. NRS 706.166 is hereby amended to read as follows:

706.166 The Authority shall:

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

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

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

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

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

(a) Providing training in safety;

(b) Reviewing and observing the programs or inspections of the 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.

~~15. Review decisions of the Taxicab Authority appealed to the Authority pursuant to NRS 706.8819.~~

1       **Sec. 4.** NRS 706.2885 is hereby amended to read as follows:

2       706.2885 1. A certificate of public convenience and necessity, permit or  
3 license issued in accordance with this chapter is not a franchise and may be  
4 revoked.

5       2. The Authority may at any time, for good cause shown, after investigation  
6 and hearing and upon 5 days' written notice to the grantee, suspend any certificate,  
7 permit or license issued in accordance with the provisions of NRS 706.011 to  
8 706.791, inclusive, and section 1 of this act for a period not to exceed 60 days.

9       3. Upon receipt of a written complaint or on its own motion, the Authority  
10 may, after investigation and hearing, revoke any certificate, permit or license. If  
11 service of the notice required by subsection 2 cannot be made or if the grantee  
12 relinquishes the grantee's interest in the certificate, permit or license by so  
13 notifying the Authority in writing, the Authority may revoke the certificate, permit  
14 or license without a hearing.

15       4. ~~¶The~~ Except as otherwise provided in section 1 of this act, the  
16 proceedings thereafter are governed by the provisions of chapter 233B of NRS.

17       **Sec. 5.** NRS 706.321 is hereby amended to read as follows:

18       706.321 1. Except as otherwise provided in subsection 2, every common or  
19 contract motor carrier shall file with the Authority:

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

21           (1) Be open to public inspection; and

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

25       (b) As a part of that schedule, all regulations of the carrier that in any manner  
26 affect the rates or fares charged or to be charged for any service and all regulations  
27 of the carrier that the carrier has adopted to comply with the provisions of NRS  
28 706.011 to 706.791, inclusive, ¶, and section 1 of this act.

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

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

31           (1) Be open to public inspection; and

32           (2) Include all rates and charges for towing services performed without the  
33 prior consent of the owner of the vehicle or the person authorized by the owner to  
34 operate the vehicle which the operator has established and which are in force at the  
35 time of filing.

36       (b) As a part of that schedule, all regulations of the operator of the tow car  
37 which in any manner affect the rates charged or to be charged for towing services  
38 performed without the prior consent of the owner of the vehicle or the person  
39 authorized by the owner to operate the vehicle and all regulations of the operator of  
40 the tow car that the operator has adopted to comply with the provisions of NRS  
41 706.011 to 706.791, inclusive, ¶, and section 1 of this act.

42       3. No changes may be made in any schedule, including schedules of joint  
43 rates, or in the regulations affecting any rates or charges, except upon 30 days'  
44 notice to the Authority, and all those changes must be plainly indicated on any new  
45 schedules filed in lieu thereof 30 days before the time they are to take effect. The  
46 Authority, upon application of any carrier, may prescribe a shorter time within  
47 which changes may be made. The 30 days' notice is not applicable when the carrier  
48 gives written notice to the Authority 10 days before the effective date of its  
49 participation in a tariff bureau's rates and tariffs, provided the rates and tariffs have  
50 been previously filed with and approved by the Authority.

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

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

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

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

**Sec. 6.** NRS 706.771 is hereby amended to read as follows:

706.771 1. Any person or any agent or employee thereof, who violates any provision of this chapter, any lawful regulation of the Authority or any lawful tariff on file with the Authority or who fails, neglects or refuses to obey any lawful order of the Authority or any court order for whose violation a civil penalty is not otherwise prescribed is liable to a penalty of not more than \$10,000 for any violation. The penalty may be recovered in a civil action upon the complaint of the Authority in any court of competent jurisdiction.

2. If the Authority does not bring an action to recover the penalty prescribed by subsection 1, the Authority may impose an administrative fine of not more than \$10,000 for any violation of a provision of this chapter or any rule, regulation or order adopted or issued by the Authority or Department pursuant to the provisions of this chapter. ~~It is~~ ~~Except as otherwise provided in section 1 of this act, a fine~~ imposed by the Authority may be recovered by the Authority only after notice is given and a hearing is held pursuant to the provisions of chapter 233B of NRS.

3. All administrative fines imposed and collected by the Authority pursuant to subsection 2 are payable to the State Treasurer and must be credited to a separate account to be used by the Authority to enforce the provisions of this chapter.

4. A penalty or fine recovered pursuant to this section is not a cost of service for purposes of rate making.

**Sec. 7.** NRS 706.775 is hereby amended to read as follows:

706.775 1. In addition to any criminal penalty, any person who violates any provision of this chapter, or any lawful regulation, rule or order adopted or issued by the Department pursuant thereto is liable to the Department for an administrative fine as follows:

(a) For a first offense, a fine of \$500.

(b) For a second offense, a fine of \$1,000 or the total cost paid by the person for registration fees pursuant to NRS 482.480 and 482.482 and governmental services taxes pursuant to NRS 371.050 during the calendar year in which the offense was committed for the vehicle in which the offense was committed, whichever is greater, except that the amount of the fine must not exceed \$2,500.

(c) For a third offense, a fine of \$1,500 or the total cost paid by the person for registration fees pursuant to NRS 482.480 and 482.482 and governmental services taxes pursuant to NRS 371.050 during the calendar year in which the offense was committed for the vehicle in which the offense was committed, whichever is greater, except that the amount of the fine must not exceed \$2,500.

(d) For a fourth and any subsequent offense, a fine of \$2,500.

2. ~~It is~~ ~~Except as otherwise provided in section 1 of this act, the~~ Department shall afford to any person fined pursuant to subsection 1 an opportunity for a hearing pursuant to the provisions of NRS 233B.121.

3. All administrative fines collected by the Department pursuant to subsection 1 must be deposited with the State Treasurer to the credit of the State Highway Fund.

1       **Sec. 8.** NRS 706.8819 is hereby amended to read as follows:

2       706.8819 1. The Taxicab Authority shall conduct hearings and make final  
3 decisions in the following matters:

4       (a) Applications to adjust, alter or change the rates, charges or fares for taxicab  
5 service;

6       (b) Applications for certificates of public convenience and necessity to operate  
7 a taxicab service;

8       (c) Applications requesting authority to transfer any existing interest in a  
9 certificate of public convenience and necessity or in a corporation that holds a  
10 certificate of public convenience and necessity to operate a taxicab business;

11       (d) Applications to change the total number of allocated taxicabs in a county to  
12 which NRS 706.881 to 706.885, inclusive, apply; and

13       (e) Appeals from final decisions of the Administrator made pursuant to NRS  
14 706.8822.

15       2. ~~{An appeal from the}~~ Any final decision of the Taxicab Authority ~~{must be~~  
16 ~~made to the Nevada Transportation Authority.}~~ *pursuant to this section is subject*  
17 *to judicial review pursuant to NRS 233B.130.*

18       **Sec. 9.** The amendatory provisions of this act do not apply to any  
19 administrative hearings before the Taxicab Authority where a final decision was  
20 issued by the Taxicab Authority on or before ~~{October 1, 2015.}~~ January 1, 2016.

21       **Sec. 10.** NRS 706.2883 is hereby repealed.

22       **Sec. 11.** This act becomes effective on January 1, 2016.

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#### TEXT OF REPEALED SECTION

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**706.2883 Person aggrieved by action or inaction of Taxicab Authority entitled to judicial review; regulations of Nevada Transportation Authority regarding its review of decisions of Taxicab Authority.** Any person who is aggrieved by any action or inaction of the Taxicab Authority pursuant to NRS 706.8819 is entitled to judicial review of the decision in the manner provided by chapter 233B of NRS. The Nevada Transportation Authority may adopt such regulations as may be necessary to provide for its review of decisions of the Taxicab Authority.