

ASSEMBLY BILL NO. 168—ASSEMBLYMAN WHEELER

PREFILED FEBRUARY 13, 2017

Referred to Committee on Transportation

SUMMARY—Makes various changes relating to the Nevada Transportation Authority. (BDR 58-645)

FISCAL NOTE: Effect on Local Government: No.
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; revising the declaration of legislative purpose and policy governing the regulation of certain motor carriers; revising the criteria for granting or modifying certificates of public convenience and necessity for certain motor carriers; revising provisions governing participation as an intervener in a hearing on an application for such a certificate; revising provisions governing the filing of an application for a certificate of public convenience and necessity by a person whose previous application has been denied; 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) The Authority is required to carry out its duties in accordance with certain purposes and policies declared by the Legislature, which include, without limitation: (1) providing for fair and impartial regulation; (2) promoting safe, adequate, economical and efficient service; (3) fostering sound economic conditions in the motor carrier industry; and (4) discouraging practices which would tend to increase or create detrimental competition in motor transportation. (NRS 706.151) **Section 1** of this bill revises these purposes and policies to state that the Legislature intends to provide for fair and impartial regulation and to promote safe service in motor transportation.

Existing law makes it unlawful for certain motor carriers to conduct operations unless the motor carrier has obtained a certificate of public convenience and necessity from the Authority. (NRS 706.386) The Authority is required to grant an application for a certificate of public convenience and necessity if the Authority finds that the applicant and its proposed operations satisfy certain criteria. (NRS 706.391) **Section 2** of this bill revises those criteria by eliminating requirements that the Authority find that the market which the applicant intends to serve will



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support the operations proposed by the applicant and that granting the application: (1) will foster sound economic conditions in the applicable industry; (2) will not unreasonably and adversely affect other motor carriers operating in the same territory as the applicant; and (3) will benefit the motor carrier business in this State. **Section 2** also provides that the Authority may only allow a person to intervene regarding the application if: (1) at the time of the application, the applicant has not held a certificate of public convenience and necessity for 5 years or more and operates not more than nine vehicles; and (2) the person has actual or constructive knowledge of an issue relating to the safe operation of the applicant.

Section 3 of this bill reduces from 180 days to 60 days the period that a person whose application for a certificate of public convenience and necessity to operate as a motor carrier is denied must wait before submitting a similar application.

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

Section 1. NRS 706.151 is hereby amended to read as follows:

706.151 1. It is hereby declared to be the purpose and policy of the Legislature in enacting this chapter:

(a) Except to the extent otherwise provided in NRS 706.881 to 706.885, inclusive, to confer upon the Authority the power and to make it the duty of the Authority to regulate fully regulated carriers, operators of tow cars and brokers of regulated services to the extent provided in this chapter and to confer upon the Department of Motor Vehicles the power to license all motor carriers and to make it the duty of the Department of Motor Vehicles and the Department of Public Safety to enforce the provisions of this chapter and the regulations adopted by the Authority pursuant to it, to relieve the undue burdens on the highways arising by reason of the use of the highways by vehicles in a gainful occupation thereon.

(b) To provide for reasonable compensation for the use of the highways in gainful occupations, and enable the State of Nevada, by using license fees, to provide for the proper construction, maintenance and repair thereof, and thereby protect the safety and welfare of the traveling and shipping public in their use of the highways.

(c) To provide for fair and impartial regulation ~~and~~ **and** to promote safe ~~adequate, economical and efficient~~ service ~~and to foster sound economic conditions~~ in motor transportation.

(d) To encourage the establishment and maintenance of reasonable charges for:

- (1) Intrastate transportation by fully regulated carriers; and
- (2) Towing services performed without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle,



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1 ↪ without unjust discriminations against or undue preferences or
2 advantages being given to any motor carrier or applicant for a
3 certificate of public convenience and necessity.

4 ~~{(e) To discourage any practices which would tend to increase or~~
5 ~~create competition that may be detrimental to the traveling and~~
6 ~~shipping public or the motor carrier business within this State.}~~

7 2. All of the provisions of this chapter must be administered
8 and enforced with a view to carrying out the declaration of policy
9 contained in this section.

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

11 706.391 1. Upon the filing of an application for a certificate
12 of public convenience and necessity to operate as a common motor
13 carrier, other than an operator of a tow car, or an application for
14 modification of such a certificate, the Authority ~~{shall}~~ **may** fix a
15 time and place for a hearing on the application.

16 2. Except as otherwise provided in subsection ~~{6,}~~ **5**, the
17 Authority shall grant the certificate or modification if it finds that:

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

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

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

28 ~~—(d)}~~ The proposed operation or the proposed modification ~~{will~~
29 ~~benefit and protect}~~ **is not inconsistent with** the safety and
30 convenience of the traveling and shipping public ~~{and the motor~~
31 ~~carrier business}~~ in this State;

32 ~~{(e)}~~ **(d)** The proposed operation, or service under the proposed
33 modification, will be provided on a continuous basis;

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

37 ~~—(g)}~~ **and**

38 **(e)** The applicant has paid all fees and costs related to the
39 application.

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



~~4.1~~ 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.

~~5.1~~ 4. 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

(c) Must pay the *reasonable* 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.

~~6.1~~ 5. The provisions of subsections 2 ~~to 5, inclusive,~~ , 3 and 4 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.

~~7.1~~ 6. 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.

~~8.1~~ 7. The Authority may attach to the certificate such terms and conditions as, in its judgment, the public ~~interest~~ *health and safety* may require.

~~9.1~~ 8. *If, at the time of application, the applicant:*

(a) Has not continuously held a certificate of public convenience and necessity in this State for 5 years or more; and

(b) Operates, and is authorized under his or her certificate of public convenience and necessity to operate, not more than nine vehicles,

↪ a person who desires to participate as an intervener in a hearing on an application for a certificate or modification pursuant to this section may file a petition for leave to intervene with the Authority. The Authority shall grant the petition if the petitioner demonstrates actual or constructive knowledge of an



1 *issue relating to the safe operation by the applicant as a common*
2 *motor carrier.*

3 9. The Authority may dispense with the hearing on the
4 application if, upon the expiration of the time fixed in the notice
5 thereof, no petition to intervene has been filed ~~for behalf of any~~
6 ~~person who has filed a protest against the granting of the certificate~~
7 ~~or modification.~~ pursuant to subsection 8.

8 10. As used in this section, "issue relating to the safe
9 operation" means information that has a direct relation to the
10 ability of the applicant to operate safely as a common motor
11 carrier, including, without limitation, information showing that
12 the applicant:

13 (a) Operates a vehicle that does not meet the applicable
14 requirements of this chapter or in any other way poses a threat to
15 the physical safety of the traveling public; or

16 (b) Employs a driver who does not meet the applicable
17 requirements of this chapter or in any other way poses a threat to
18 the physical safety of the traveling public.

19 Sec. 3. NRS 706.396 is hereby amended to read as follows:

20 706.396 Any person who, after hearing, has been denied a
21 certificate of public convenience and necessity to operate as a
22 carrier must not be permitted again to file a similar application with
23 the Authority covering the same type of service and over the same
24 route or routes or in the same territory for which the certificate of
25 public convenience and necessity was denied except after the
26 expiration of ~~180~~ 60 days after the date the certificate of public
27 convenience and necessity was denied.

