

Amendment No. 139

Assembly Amendment to Assembly Bill No. 234 (BDR 58-651)

Proposed by: Assembly Committee on Transportation**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

Adoption of this amendment will MAINTAIN the unfunded mandate not requested by the affected local government to A.B. 234 (§ 1).

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.

DLJ/JRS



Date: 4/9/2017

A.B. No. 234—Revises provisions governing motor carriers. (BDR 58-651)



ASSEMBLY BILL NO. 234—ASSEMBLYMEN FUMO, WATKINS, FRIERSON, CARRILLO, YEAGER; ARAUJO, BROOKS, COHEN, DALY, FLORES, HAMBRICK, JAUREGUI, JOINER, MCCURDY II, MILLER, MONROE-MORENO, OHRENSCHALL, PICKARD, SPIEGEL, SPRINKLE AND THOMPSON

FEBRUARY 24, 2017

JOINT SPONSORS: SENATORS FORD AND WOODHOUSE

Referred to Committee on Transportation

SUMMARY—Revises provisions governing motor carriers. (BDR 58-651)

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: Yes.

CONTAINS UNFUNDED MANDATE (§ 1)
(NOT REQUESTED BY AFFECTED LOCAL GOVERNMENT)

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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 certain motor carriers of passengers who transport certain persons with disabilities to ensure that each vehicle used for the transport is equipped with first-aid equipment and to provide each driver of the vehicle ~~receives~~ training in first aid and cardiopulmonary resuscitation; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, common motor carriers of passengers and contract motor carriers of passengers are subject to supervision and regulation by the Nevada Transportation Authority, with some exceptions. (NRS 706.166)

Section 1 of this bill requires a common motor carrier of passengers, contract motor carrier of passengers and any other person or entity, other than a taxicab motor carrier, providing a means of public conveyance and transportation operating in this State and which transports for compensation certain persons with disabilities, commonly referred to as "paratransit services," to ensure that: (1) each vehicle used in the transport is equipped with a first-aid kit; and (2) each driver of a vehicle used for the transport receives training in first aid and cardiopulmonary resuscitation. **Section 1 also requires the carrier, person or entity to: (1) provide the training in first aid and cardiopulmonary resuscitation or arrange for its provision for the driver; (2) pay for the training; and (3) compensate each driver for the time spent receiving the training.** Existing law makes a violation of this requirement a misdemeanor. (NRS 706.756) **Sections 2-5** of this bill make conforming changes. **Section 6 of this bill provides that the provisions of this bill do not apply during the current term**

of any collective bargaining agreement entered into before the effective date of this bill, but do apply to any extension or renewal of such an agreement and to any such agreement entered into on or after the effective date of this bill.

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. A common motor carrier of passengers, contract motor carrier of passengers or other person or entity providing a means of public conveyance and transportation operating within this State which, pursuant to the requirements of 49 C.F.R. § 37.121, transports for compensation within this State persons with disabilities who are eligible pursuant to 49 C.F.R. § 37.123 for the transportation shall ensure that:

~~HH~~ (a) Each vehicle used for the transport is equipped with a first-aid kit; and

~~HH~~ (b) Each driver of a vehicle used for the transport receives training in the use and administration of first aid and cardiopulmonary resuscitation that is conducted in accordance with the standards of the American Heart Association, the American Red Cross or any similar organization that includes certification in:

~~(a)~~ (1) First aid; and

~~(b)~~ (2) Cardiopulmonary resuscitation.

2. A common motor carrier of passengers, contract motor carrier of passengers or other person or entity who employs a driver required to receive the training required pursuant to paragraph (b) of subsection 1 must:

(a) Provide the training or arrange for its provision for the driver;

(b) Pay for the training; and

(c) Compensate each driver who receives the training at his or her regular rate of pay for the time the driver spent attending the training.

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 706.156 is hereby amended to read as follows:

706.156 1. All common and contract motor carriers and brokers are hereby declared to be, to the extent provided in this chapter:

(a) Affected with a public interest; and

(b) Subject to NRS 706.011 to 706.791, inclusive ~~HH~~, *and section 1 of this act.*

2. A purchaser or broker of transportation services which are provided by a common motor carrier who holds a certificate of public convenience and necessity may resell those services, in combination with other services and facilities that are not related to transportation, but only in a manner complying with the scope of authority set forth in the certificate of the common motor carrier. The Authority shall not prohibit or restrict such a purchaser or broker from reselling those transportation services to any person based upon that person's affiliation, or lack of affiliation, with any group.

Sec. 4. NRS 706.745 is hereby amended to read as follows:

706.745 1. The provisions of NRS 706.386 and 706.421 do not apply to:

1 (a) Ambulances;
2 (b) Hearses; or
3 (c) Common motor carriers or contract motor carriers that are providing
4 transportation services pursuant to a contract with the Department of Health and
5 Human Services entered into pursuant to NRS 422.27495.

6 2. A common motor carrier that enters into an agreement for the purchase of
7 its service by an incorporated city, county or regional transportation commission is
8 not required to obtain a certificate of public convenience and necessity to operate a
9 system of public transit consisting of:

10 (a) Regular routes and fixed schedules;

11 (b) Nonemergency medical transportation of persons to facilitate their
12 participation in jobs and day training services as defined in NRS 435.176 if the
13 transportation is available upon request and without regard to regular routes or
14 fixed schedules;

15 (c) Nonmedical transportation of persons with disabilities without regard to
16 regular routes or fixed schedules; or

17 (d) In a county whose population is less than 100,000 or an incorporated city
18 within such a county, nonmedical transportation of persons if the transportation is
19 available by reservation 1 day in advance of the transportation and without regard
20 to regular routes or fixed schedules.

21 3. Under any agreement for a system of public transit that provides for the
22 transportation of passengers that is described in subsection 2:

23 (a) The public entity shall provide for any required safety inspections; or

24 (b) If the public entity is unable to do so, the Authority shall provide for any
25 required safety inspections.

26 4. In addition to the requirements of subsection 3, under an agreement for a
27 system of public transit that provides for the transportation of passengers that is
28 described in:

29 (a) Paragraph (a) of subsection 2, the public entity shall establish the routes and
30 fares.

31 (b) Paragraph (c) or (d) of subsection 2, the common motor carrier:

32 (1) May provide transportation to any passenger who can board a vehicle
33 with minimal assistance from the operator of the vehicle.

34 (2) ~~Shall~~ *Except as otherwise provided in section 1 of this act, shall* not
35 offer medical assistance as part of its transportation service.

36 5. In a county whose population:

37 (a) Is less than 700,000, a nonprofit carrier of elderly persons or persons with
38 disabilities is not required to obtain a certificate of public convenience and
39 necessity to operate as a common motor carrier of such passengers only, but such a
40 carrier is not exempt from inspection by the Authority to determine whether its
41 vehicles and their operation are safe.

42 (b) Is 700,000 or more, a nonprofit carrier of elderly persons or persons with
43 disabilities is not required to obtain a certificate of public convenience and
44 necessity to operate as a common motor carrier of such passengers only, but:

45 (1) Only if the nonprofit carrier:

46 (I) Does not charge for transportation services;

47 (II) Provides transportation services pursuant to a contract with the
48 Department of Health and Human Services entered into pursuant to NRS
49 422.27495; or

50 (III) Enters into an agreement for the purchase of its service by an
51 incorporated city, county or regional transportation commission; and

52 (2) Such a carrier is not exempt from inspection by the Authority to
53 determine whether its vehicles and their operation are safe.

6. An incorporated city, county or regional transportation commission is not required to obtain a certificate of public convenience and necessity to operate a system of public transportation.

7. Before an incorporated city or a county enters into an agreement with a common motor carrier for a system of public transit that provides for the transportation of passengers that is described in paragraph (c) or (d) of subsection 2 in an area of the incorporated city or an area of the county, it must determine that:

(a) There are no other common motor carriers of passengers who are authorized to provide such services in that area; or

(b) Although there are other common motor carriers of passengers who are authorized to provide such services in the area, the common motor carriers of passengers do not wish to provide, or are not capable of providing, such services.

Sec. 5. NRS 706.756 is hereby amended to read as follows:

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

(a) Operates a vehicle or causes it to be operated in any carriage to which the provisions of NRS 706.011 to 706.861, inclusive, *and section 1 of this act*, apply without first obtaining a certificate, permit or license, or in violation of the terms thereof;

(b) Fails to make any return or report required by the provisions of NRS 706.011 to 706.861, inclusive, *and section 1 of this act* or by the Authority or the Department pursuant to the provisions of NRS 706.011 to 706.861, inclusive ~~††~~, *and section 1 of this act*;

(c) Violates, or procures, aids or abets the violating of, any provision of NRS 706.011 to 706.861, inclusive ~~††~~, *and section 1 of this act*;

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

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

(f) Advertises, solicits, proffers bids or otherwise is held out to perform transportation as a common or contract carrier in violation of any of the provisions of NRS 706.011 to 706.861, inclusive ~~††~~, *and section 1 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,

1 ☞ is guilty of a misdemeanor, and upon conviction thereof shall be punished by a
2 fine of not less than \$100 nor more than \$1,000, or by imprisonment in the county
3 jail for not more than 6 months, or by both fine and imprisonment.

4 2. Any person who, in violation of the provisions of NRS 706.386, operates
5 as a fully regulated common motor carrier without first obtaining a certificate of
6 public convenience and necessity or any person who, in violation of the provisions
7 of NRS 706.421, operates as a contract motor carrier without first obtaining a
8 permit is guilty of a misdemeanor and shall be punished:

9 (a) For a first offense within a period of 12 consecutive months, by a fine of
10 not less than \$500 nor more than \$1,000. In addition to the fine, the person may be
11 punished by imprisonment in the county jail for not more than 6 months.

12 (b) For a second offense within a period of 12 consecutive months and for each
13 subsequent offense that is committed within a period of 12 consecutive months of
14 any prior offense under this subsection, by a fine of \$1,000. In addition to the fine,
15 the person may be punished by imprisonment in the county jail for not more than 6
16 months.

17 3. Any person who, in violation of the provisions of NRS 706.386, operates
18 or permits the operation of a vehicle in passenger service without first obtaining a
19 certificate of public convenience and necessity is guilty of a gross misdemeanor.

20 4. If a law enforcement officer witnesses a violation of any provision of
21 subsection 2 or 3, the law enforcement officer may cause the vehicle to be towed
22 immediately from the scene and impounded in accordance with NRS 706.476.

23 5. The fines provided in this section are mandatory and must not be reduced
24 under any circumstances by the court.

25 6. Any bail allowed must not be less than the appropriate fine provided for by
26 this section.

27 **Sec. 6. The amendatory provisions of this act:**

28 **1. Do not apply during the current term of any collective bargaining**
29 **agreement entered into before the effective date of this act; and**

30 **2. Apply to any extension or renewal of such an agreement and to any**
31 **such agreement entered into on or after the effective date of this act.**

32 ~~Sec. 6.~~ **Sec. 7.** The provisions of NRS 354.599 do not apply to any
33 additional expenses of a local government that are related to the provisions of this
34 act.

35 **Sec. 8. This act becomes effective upon passage and approval.**