
SENATE BILL NO. 309—SENATORS GUSTAVSON, PARKS; GANSERT,
GOICOECHEA, HARDY, HARRIS, ROBERSON AND SETTELMAYER

MARCH 17, 2017

JOINT SPONSORS: ASSEMBLYMEN TITUS; ELLISON, HAMBRICK,
MARCHANT, MCARTHUR AND WHEELER

Referred to Committee on Transportation

SUMMARY—Makes various changes relating to the Nevada
Transportation Authority. (BDR 58-199)

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 the holding of, and participation as an intervenor 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:

1 Existing law provides for the regulation of certain motor carriers in this State
2 by the Nevada Transportation Authority. (NRS 706.011-706.791) The Authority is
3 required to carry out its duties in accordance with certain purposes and policies
4 declared by the Legislature, which include, without limitation: (1) providing for fair
5 and impartial regulation; (2) promoting safe, adequate, economical and efficient
6 service; (3) fostering sound economic conditions in the motor carrier industry; and
7 (4) discouraging practices which would tend to increase or create detrimental
8 competition in motor transportation. (NRS 706.151) **Section 1** of this bill revises



9 these purposes and policies to state that the Legislature intends to provide for fair
10 and impartial regulation and to promote safe service in motor transportation.

11 Existing law provides that it is unlawful for certain motor carriers to conduct
12 operations unless the motor carrier has obtained a certificate of public convenience
13 and necessity from the Authority. (NRS 706.386) The Authority is required to: (1)
14 fix a time and place for a hearing on an application for a certificate of public
15 convenience and necessity; and (2) grant the application if the Authority finds that
16 the applicant and its proposed operations satisfy certain criteria. (NRS 706.391)
17 **Section 2** of this bill makes the fixing of a time and place for a hearing
18 discretionary and revises those criteria by eliminating requirements that the
19 Authority find that the market which the applicant intends to serve will support the
20 operations proposed by the applicant and that granting the application: (1) will
21 foster sound economic conditions in the applicable industry; (2) will not
22 unreasonably and adversely affect other motor carriers operating in the same
23 territory as the applicant; and (3) will benefit the motor carrier business in this
24 State. **Section 2** also provides that the Authority may allow a person to intervene
25 regarding such an application only if the person has actual or constructive
26 knowledge that the applicant poses a threat to the physical safety of the traveling
27 public.

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

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

1 **Section 1.** NRS 706.151 is hereby amended to read as follows:
2 706.151 1. It is hereby declared to be the purpose and policy
3 of the Legislature in enacting this chapter:

4 (a) Except to the extent otherwise provided in NRS 706.881 to
5 706.885, inclusive, to confer upon the Authority the power and to
6 make it the duty of the Authority to regulate fully regulated carriers,
7 operators of tow cars and brokers of regulated services to the extent
8 provided in this chapter and to confer upon the Department of Motor
9 Vehicles the power to license all motor carriers and to make it the
10 duty of the Department of Motor Vehicles and the Department of
11 Public Safety to enforce the provisions of this chapter and the
12 regulations adopted by the Authority pursuant to it, to relieve the
13 undue burdens on the highways arising by reason of the use of
14 the highways by vehicles in a gainful occupation thereon.

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



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

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

6 (1) Intrastate transportation by fully regulated carriers; and

7 (2) Towing services performed without the prior consent of
8 the owner of the vehicle or the person authorized by the owner to
9 operate the vehicle,

10 **↳** without unjust discriminations against or undue preferences or
11 advantages being given to any motor carrier or applicant for a
12 certificate of public convenience and necessity.

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

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

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

20 706.391 1. Upon the filing of an application for a certificate
21 of public convenience and necessity to operate as a common motor
22 carrier, other than an operator of a tow car, or an application for
23 modification of such a certificate, the Authority ~~{shall}~~ **may** fix a
24 time and place for a hearing on the application.

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

27 (a) The applicant is financially and operationally fit, willing and
28 able to perform the services of a common motor carrier ~~{and that the~~
29 ~~operation of, and the provision of such services by, the applicant as~~
30 ~~a common motor carrier will foster sound economic conditions}~~
31 within the applicable industry;

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

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

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

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

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



1 ~~(g)~~ and
2 (e) The applicant has paid all fees and costs related to the
3 application.

4 3. ~~{The Authority shall not find that the potential creation of~~
5 ~~competition in a territory which may be caused by the granting of~~
6 ~~the certificate or modification, by itself, will unreasonably and~~
7 ~~adversely affect other carriers operating in the territory for the~~
8 ~~purposes of paragraph (e) of subsection 2.~~

9 ~~4.~~ In determining whether the applicant is fit to perform the
10 services of a common motor carrier pursuant to paragraph (a) of
11 subsection 2, the Authority shall consider whether the applicant has
12 violated any provision of this chapter or any regulations adopted
13 pursuant thereto.

14 ~~5.~~ 4. The applicant for the certificate or modification:

15 (a) Must submit a complete set of fingerprints of each natural
16 person who is identified by the Authority as a significant principal,
17 partner, officer, manager, member, director or trustee of the
18 applicant and written permission authorizing the Authority to
19 forward the fingerprints to the Central Repository for Nevada
20 Records of Criminal History for submission to the Federal Bureau
21 of Investigation for its report;

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

24 (c) Must pay the *reasonable* amounts billed to the applicant by
25 the Authority for the costs incurred by the Authority in conducting
26 any investigation regarding the applicant and the application.

27 ~~6.~~ 5. The provisions of subsections 2 ~~{to 5, inclusive.}~~, 3 and
28 4 do not apply to an owner or operator of a charter bus. The
29 Authority shall grant the certificate or modification to an owner or
30 operator of a charter bus that is not a fully regulated carrier if the
31 Authority finds that the owner or operator of the charter bus has
32 complied with the provisions of subsection 1 of NRS 706.463 and
33 any applicable regulations of the Authority.

34 ~~7.~~ 6. The Authority may issue or modify a certificate of
35 public convenience and necessity to operate as a common motor
36 carrier, or issue or modify it for:

37 (a) The exercise of the privilege sought.

38 (b) The partial exercise of the privilege sought.

39 ~~8.~~ 7. The Authority may attach to the certificate such terms
40 and conditions as, in its judgment, the public ~~{interest}~~ *health and*
41 *safety* may require.

42 ~~9.~~ 8. *A person who desires to participate as an intervenor in*
43 *a hearing on an application for a certificate or modification*
44 *pursuant to this section may file a petition for leave to intervene*
45 *with the Authority. The Authority shall grant such a petition if the*



1 *petitioner demonstrates actual or constructive knowledge of an*
2 *issue relating to the safe operation by the applicant as a common*
3 *motor carrier.*

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

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

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

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

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

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



