

Leasing in Clark County, Nevada

Taxicab Authority

Legislative Intent –

1. Allows leasing in Clark County to operate similarly to leasing done in the rest of Nevada.
2. Leasing under NRS 706.881 – NRS 706.885 does not relieve certificate holders or independent contractors from their obligations under Nevada statutes.
3. Certificate holders - independent contractors under a lease agreement remain subject to similar laws as certificate holders – drivers.

Legislative Intent –

- Based upon - Legislative Counsel's Digest:

Section 1.5 [codified into NRS 706.88396(1)] and 1.7 [codified into NRS 706.88181] of this bill allow, in areas regulated by the Taxicab Authority, for a person to operate a taxicab as an independent contractor in a similar manner as in areas regulated by the Nevada Transportation Authority.

Legislative Intent –

- Based upon - Similar statutory language used for TA and NTA leases.
 - ❖ Use of leased taxicabs: NRS 706.473(1) and NRS 706.88396(1)
 - ❖ Liability of Carrier: NRS 706.473(3) and NRS 706.88396(3)

Legislative Intent

Similar language - USE of leased taxicab

TA Language:
Section 1.5 codified
into NRS
706.88396(1)
states:

- A certificate holder, may upon approval from the Taxicab Authority, lease a taxicab to an independent contractor who is not a certificate holder. A certificate holder may lease only one taxicab to each independent contractor with whom the person enters into a lease agreement. The taxicab may be used only in a manner authorized by the certificate holder's certificate of public convenience and necessity.

NTA Language: NRS
706.473(1) states:

- In a county whose population is less than 700,000, a person who holds a certificate of public convenience and necessity which was issued for the operation of a taxicab business may, upon approval from the Authority, lease a taxicab to an independent contractor who does not hold a certificate of a public convenience and necessity. A person may lease only one taxicab to each independent contractor with whom the person enters into a lease agreement. The taxicab may be used only in a manner authorized by the lessor's certificate of public convenience and necessity.

Legislative Intent – Similar language – LIABILITY of carriers

TA Language:
NRS
706.88396(3)
states:

- A certificate holder who leases a taxicab to an independent contractor is jointly and severally liable with the independent contractor for any violation of the provisions of this chapter or the regulations adopted pursuant thereto, and shall ensure that the independent contractor complies with such provisions and regulations.

NTA Language:
NRS 706.473(3)
states:

- A person who leases a taxicab to an independent contractor is jointly and severally liable with the independent contractor for any violation of the provisions of this chapter or the regulations adopted pursuant thereto, and shall ensure that the independent contractor complies with such provisions and regulations.

Workshop Framed by Legislative Intent –

1. *Allows leasing in Clark County to operate similarly to leasing done in the rest of Nevada.*
2. *Leasing under NRS 706.881 – NRS 706.885 does not relieve certificate holders or independent contractors from their obligations under Nevada statutes.*
3. *Certificate holders - independent contractors under a lease agreement remain subject to similar laws as certificate holders – drivers.*

Legislature Mandated Lease Regulations be Adopted.

NRS 706.88181(1) states:

The Taxicab Authority shall adopt such regulations as are necessary to:

- (a) Carry out the provisions of NRS 706.88396; and*
- (b) Ensure that the taxicab business remains safe, adequate, and reliable.*

Goals for Lease Workshop:

Review Identified Concerns;

Give an opportunity to add to the list of identified concerns; and

TA will consider concerns within the framework set by Legislative Intent.

Identified Concerns:

1. **Notify TA about lease terminations within 48 hours.**
 - **Purpose: Ensure driver has legitimate right to act as an independent contractor. (Issue impacts drivers who are independent contractors only.)**
 - **Meant to allow TA in its real-time data system to accurately input the length of each lease agreement.**
 - **Should a lease end prior to its expiration, the TA intends on denying an Independent Contractor's access to the respective taxicab.**

Identified Concerns:

2. Section 4.1 is vague when it states “except as otherwise provided in subsection 4, such a lease is not executed until it has been approved or preapproved by the Administrator pursuant to this section.”
 - Language consistent with NRS 706.88396(2) which states, “A certificate holder who enters into a lease agreement with an independent contractor pursuant to this section shall submit a copy of the agreement to the Taxicab Authority for its approval. The agreement is not effective until approved by the Taxicab Authority.”

Identified Concerns:

3. Consideration within submitted templates

- There only needs to be a section in the template allowing for consideration to be paid in exchange for the use of the taxicab. The TA does not propose that taxicab companies insert a fixed consideration amount in its template to satisfy Sec. 5(1)(c). Leaving a blank for the consideration amount in the template should suffice.

Identified Concerns:

4. Permitting cab company to determine whether to allow independent contractor to also work on a TNC platform. *
 - Legislative intent is to have leasing in Clark County operate similarly to leasing in areas regulated by the NTA.
 - NRS 706.88396 limits taxicabs to be used *only in a manner authorized by a certificated holder's certificate of public convenience and necessity.* (See NRS 706.8827 – CPCN purpose is to engage in taxicab business.)
 - NRS 706.88181(1) mandates that the TA adopt regulation necessary to carry out provisions of NRS 706.88396.

Identified Concerns:

5. **Strike language in 5.1 that limits use of taxicab - manner authorized by a cab owner's CPCN. ***
 - **Legislative Intent: allows leasing in Clark County to operate similarly to leasing done in the rest of Nevada.**
 - **Leasing under NRS 706.881 – NRS 706.885 does not relieve certificate holders or independent contractors from their obligations under Nevada statutes.**
 - **NRS 706.8827 defines the purpose behind CPCNs issued by the TA (to engage in the taxicab business)**
 - **NRS 706.88396: “The taxicab may be used only in a manner authorized by the certificate holder’s certificate of public convenience and necessity.”**

Identified Concerns:

6. Strike language in 5.1(g) that allows TA in the lease agreement to add “other provision(s) necessary to protect the health and safety of the public.”
 - This only applies to provisions within the lease agreement.
 - Any added language must satisfy the purpose...necessary to protect the health and safety of the public.
 - TA remains limited by statutory authority.
 - **NRS 706.88181: *The Taxicab Authority shall adopt such regulations as are necessary to:***
 - (a) *Carry out the provisions of NRS 706.88396; and*
 - (b) *Ensure that the taxicab business remains safe, adequate, and reliable.*

Identified Concerns:

7. NRS 706.88499: prohibition only forbids employees not independent contractors from working simultaneously as TNCs. *

 - Industry reads leasing statutes as prohibitive. Statutory silence may be inferred as permitting a party to do an act.
 - No. **Leasing statutes create authority under which the TA and certificate holders may act.** Means? Leasing in Clark County was not permitted until the Legislature passed SB 376. SB 376 authorized cab companies in Clark County to lease taxicabs to independent contractors.
 - Need specific language authorizing independent contractors to simultaneously use leased cabs for taxicab rides and TNC rides. None found.
 - Restriction is addressed in NRS 706.88396 which states, “The taxicab may be used only in a manner authorized by the certificate holder’s certificate of public convenience and necessity.”

Identified Concerns:

8. **Section 9.1 submission of daily trip sheets – does this allow for electronic submission?**
 - **Yes. NRS 706.8844 specifically allows trip sheets to be in electronic form.**
 - **NRS 706.8844(1) states: A certificate holder shall require the certificate holder's drivers to keep daily trip sheet in a form to be prescribed by the Taxicab Authority, including, without limitation, in electronic form.**
 - **At the May 16, 2016 workshop, the TA agreed to accept electronic trip sheets sent by taxicab companies.**

Identified Concerns:

9. **Section 10.5 requires cab company to notify TA within 3 business days if the medallion is lost. Seems unnecessary.**
 - **Timeframe benefits the TA in its ability to track its property, budget for additional lease medallions, and maintain updated reports of industry practices.**
 - **Ensures timely reporting from cab companies. At current allocation levels, companies have no compelling reason to report lost medallions on a timely basis.**

Identified Concerns:

10. Section 11 – suggested language. Add “as” in between the words operates and a. *
- Change would not be consistent with language in NRS 706.88396
 - Change would not be consistent with legislative intent.

Identified Concerns:

11. Section 11.1 makes an independent contractor who operates a taxicab which has been leased from a certificate holder will be deemed to be on duty for the purposes of sections 2 to 12, inclusive, of this regulation. *
- Existing language is consistent with NRS 706.88396 and legislative intent.
 - Similar to NTA language for leasing in NAC 706.3763: **The Authority will deem that a driver of a taxicab who is operating a taxicab is on duty and working his or her shift and is subject to the provisions of this chapter and chapter 706 of NRS.**

Identified Concerns:

12. Section 13 – request made to add definition of certificate holder.
 - NRS 706.8813 already defines certificate holder.

Identified Concerns:

13. Section 16.2 requires cab companies to inform both drivers and independent contractors of violent crimes.
 - Company procedures do not have to be taxing to be effective.
 - a) Notifying independent contractors at the time of signing;
 - b) Have a contract clause that independent contractors remain responsible for checking the “board” daily for any updates or new information;
 - c) Send out a group email to independent contractors of any updates, etc.
 - How do companies intend on maintaining their communication with independent contractors during the lease period? Violent crimes information can be shared through this medium.

Identified Concerns:

14. Section 18: update location of where to place medallions. Change: left rear fender to left rear quarter panel.
 - TA acknowledges this language clarifies.

Identified Concerns:

15. Section 19: include language that requires placement of a mirror on the outside of the front door on passenger's side.
 - Recommendation is noted.

Identified Concerns:

16. Section 27: dress code

- Cab owners are not required to have a dress code directive for independent contractors.
- Section 27.1 has the words, “if applicable,” to allow cab owners to decide its procedures, if any, for independent contractors.

Identified Concerns:

17. Section 28 discusses rotation. Cab companies do not feel they have the power to “make” independent contractors comply with this requirement.

- NRS 706.88396(3) places affirmative duty on cab companies to ensure independent contractors comply with Nevada statutes and regulations.
- Independent contractors are separately held to statutory requirements under NRS 706.881 – NRS 706.885 and applicable regulations under NAC Chapter 706.
- TA Investigators will give citations to independent contractors when needed.

Identified Concerns:

18. Section 28.10 prohibits an independent contractor from operating a taxicab while taking drugs that may impair his or her ability to safely operate a taxicab.
 - Current language is broad enough to include both legal and illegal drugs.

Identified Concerns:

- 19. Section 28.12 discusses advertising on the leased cab. Cab companies are concerned about exerting control over the independent contractor.**
- **Purpose is to ensure that the condition of leased taxicabs do not change without the prior approval of cab owners. It may become costly if the cab owners must re-wrap or repair any changes made by an independent contractor to leased taxicabs.**
 - **This issue may be a contract clause between cab owners and independent contractors.**

Identified Concerns:

20. Section 34.1 allows independent contractors to lease taxicabs from multiple carriers. Concern is tracking the number of hours driven by independent contractors.
- Suggestion: have independent contractors maintain a log documenting hours on duty.

Identified Concerns:

21. Section 34.1(g) only permits paying passengers to ride in leased taxicabs. *

- Existing language is consistent with NRS 706.88396 and legislative intent.
- Similar to NTA language in NAC 706.365(2): **No person other than the driver may be allowed within any taxicab unless that person is a passenger who is actually being transported and is paying a fare, unless that person is another taxicab driver being transported to or from his or her shift as a taxicab driver. (Under section: General Provisions for Operating and Leasing Taxicabs)**

**Additional Concerns within provided
framework?**

