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September 07, 2011

United States Congress
U.S. Department Of Justice - Antitrust Division
Secretary of Transportation
Surface Transportation Board of U.S. Department Of Transport
U.S. Department Of Labor
U.S. Department Of Commerce
U.S. Department Of Energy
The White House

- RE: 1- Help Us File An Antitrust Complaint at the Antitrust Division of the Department of Justice In Order the Department Of Justice Can Deregulate Taxi-Cabs Medallion and the entire Taxi-Cab Industry in the United States.
- 2- Under the Federal Code 49 USC Section 13506(b) (See Exhibit E), Ask the Secretary of Transportation and/or the Surface Transportation Board of the Department of Transportation to Deregulate Taxi-Cab Medallions and the Entire Industry, Which is Now Necessary and Urgent.

- 3- Proposal for Modification Of Title 49, United States Code. Please Help Us Contact Member Of Congress In Order To Turn The Proposed Bill Into Law.
- 4- Eliminate 49 USC Section 13506 (a) (2) (See Exhibit E) and allow the Secretary and the Board to have Jurisdiction over a motor vehicle providing taxi-cab services due to the involvement of taxi-cab vehicles in interstate commerce; and U.S. constitution violations as well as antitrust problems caused by States and local governments.

Ladies & Gentleman:

I am writing on behalf of the American Association for Taxi Cabs , “AATC”
I would like to inform you that:

- 1- I need your help to file a complaint with the antitrust department of DOJ in order that taxi-cabs medallion and the entire taxi-cabs industry will be deregulated in the United States.
- 2- Under the Federal Code 49 USC Section 13506(b) (See Exhibit E), Ask the Secretary of Transportation and the Surface Transportation Board of the Department of Transportation to Deregulate Taxi-Cab Medallions and the Entire Industry, Which is Now Necessary and Urgent.
- 3- I have an idea for new legislation in the area of taxi cabs, which involves adding a new section to the transportation chapter of the United States Code. Attached is a draft of a proposed bill.
- 4- Eliminate 49 USC Section 13506 (a) (2) (See Exhibit E) and allow the Secretary and the Board to have jurisdiction over a motor vehicle providing taxi-cab services due to the involvement of taxi-cab vehicles in interstate commerce; and U.S. constitution violations as well as antitrust problems caused by States and local governments.

I am very familiar with these issues because I am a former cab driver. I invite you to please join me in order to build a nation-wide network in order to reduce the cost of taxi-cab fares, put clean fuel formulas or hybrid vehicles on the road, improve the economic situation of the drivers, and increase the buying power and the standard of living of all Americans.

Just in Miami-Dade County, Florida, more than 4,000 qualifiers are waiting to have a medallion (“qualifiers” are eligible drivers, “medallion” is a county-issued vehicle permit and the name of for-hire license registration for taxi-cab). Unfortunately, many cab drivers refuse to apply in the lottery system because they feel that it is not the right way to obtain it. It is like gambling.

If Congress enacts the proposal, Miami-Dade County alone can easily generate the \$25,000.00 cost of a medallion times 4,000 taxi operators, which equals \$100,000,000.00 and even more. This money could be used to solve the budget problems that exist in education, the health care system and numerous social programs.

That is much money that Miami-Dade County, and other high-populated counties where the medallion has a high monetary value, will be able to generate to replace the lower tax income caused by the foreclosure crisis and the recession. In addition, new hybrid eight-passenger vehicles, well equipped, will be on the road. That means more safety, less carbon dioxide emission, and less pollution in the air.

I am looking for powerful organizations and congressional representatives nationwide in order to reach the association’s goal. All cab drivers who live in a county where the medallion has a high monetary value will want to buy a brand new hybrid or clean fuel formula vehicle to put on the road and reduce the meter fare by at least 25% if Congress passes the proposed bill. This is what I heard from cab drivers in Miami and Fort Lauderdale, Florida; Chicago, Illinois; Los Angeles and San Francisco, California; Philadelphia, Pennsylvania; New York City, Manhattan area, New York; Boston, Massachusetts; etc.

The money and the opportunity are there, we just need to go and grab it.

A professional cab driver in Miami, Florida pays about \$29,000 to \$34,675 yearly to a taxi-cab company or the medallion owner as a cost for their

lease, plus more than \$5,000 as city and county toll charges and gas taxes and spend 12 hours, 16 hours, 18 hours to 20 hours a day on the road in order to make ends meet. Sometimes, they even spend two or three days without returning home in order to make a living because county and state governments fail to protect them.

ANTITRUST PROBLEMS

State and local governments violate 15 USC Section 3(b) of the antitrust law and other sections of this law. When city and county governments monopolize taxi-cab medallions or permits and refuse to issue new medallions or permits to professional taxi-cab drivers in order to increase the medallion cost, and thus force the driver to lease and rent from taxi-cab companies at an exorbitant price, it is an antitrust law problem. Their actions cause the medallion and the permit cost to increase to a range of \$1,000.00 to \$600,000.00.

Drivers lease and rent from taxi-cab companies for more than \$34,500.00 a year. The consequence is that taxi-cab fares are increase to a rate that residents, tourists and the economically disadvantaged individuals cannot afford.

It is an antitrust law problem because the economic power is concentrated in the hands of a few and the cab drivers have to work as slaves, about 18 to 20 hours a day, in order to make ends meet. That situation allows cities, counties and taxi-cab companies to monopolize the market, restrain free trade and prevent a better mass and public transportation system as well as prevent a stable economic growth. Both the passengers and the taxi-cab drivers were injured and exploited because of state and local governments' behavior.

In some jurisdictions such as Washington, D. C. and West Palm Beach, Florida, owning a taxi-cab medallion or county permit is a right that belongs to the professional taxi-cab drivers, not a privilege or a favor. It should be that way nationwide.

For example, if American Airlines, United Airlines... wishes to put 200 aircrafts in service the federal government will issue 200 aircraft "N" Numbers (N number is the name of for-hire license registration for aircraft)

to the airlines company immediately. But why do we prevent the poor taxi-cab driver from obtaining a medallion/permit when he/she needs only one medallion/permit to take care of his/her family?

In order to promote fair competition, good trade, equal opportunity, fairness and to prevent too much taxi-cab on the road; and to stop investors monopolize taxi-cab medallion or county permit , I strongly believe that the hack license number or taxi operator's license number of the driver should also be the medallion number or permit number of the taxi-cab driver and the licensed vehicle should be operated only by the taxi-cab driver it was assigned to. The medallion and its vehicle shall be free from any liens and cannot be a part of compensation in any personal injury and civil lawsuit. All personal injury claims shall be made according to 49 U.S.C. Section 5340 (J) of the proposed bill. (See Exhibit A).

It is at the same time an antitrust law problem, a constitutional law problem, a human rights problem, a civil rights problem and a labor right problem. The federal government, Congress, US Department of Justice, US Department of Commerce and US Department of Transportation should intervene in order to deregulate taxi-cab medallions and taxi-cab permits as well as the whole taxi-cab industry.

The taxi-cab medallion is not a stock or a piece of real estate. States and local governments should stop considering it to be like that. Medallion is the name of the for-hire license registration number for the taxi-cab vehicle, like the “N” number is the name of the for-hire license registration number for the aircraft, and the USDOT number is the name of the for-hire license registration number for a commercial vehicle like truck, bus, etc.

Aside from Washington D.C., most City and County codes as well as the statutes of most States prevent taxi-cab drivers from making a living and having a decent life as a human being.

Taxi-cab drivers deserve better treatment than that and a fair share of the money generated in the public transportation industry, because it is at the same time a human right, a civil right, a labor right, a constitutional right and an antitrust law problem.

An aircraft “N” number (“N” number is the name of “for-hire license

registration for aircraft”) cost ten dollars (\$10.00). The price of a USDOT number (USDOT number is the name of “for-hire license registration for commercial vehicle like trucks, buses, etc.”) is between \$150.00 and \$550.00. A water vessel registration number (for-hire license registration for vessel) is less than \$100.00 in most states. But, why does the value of a taxi-cab medallion (medallion is the name of “for-hire license registration for taxi-cab”) have to reach the \$1,000.00 to \$600,000.00 range? There is almost no expense associated with assigning a registration number to a vehicle. Just the cost of the paper, the printing, and the processing time. It is the duty of Congress and the appropriate Federal department office (DOJ) to solve this antitrust law problem.

There are U.S. Supreme Court cases that invalidate particular state and local regulations of public passenger vehicles for-hire due to their impact on interstate commerce in violation of the U.S. Constitution. See 49 U.S.C.S. Section 13506 n 8 (See Exhibit H).

In some areas like Miami-Dade County, Florida, taxi cab drivers pay more than \$32,700.00 a year for their lease which includes insurance. Unfortunately, when the drivers get involved in an automobile accident, the taxi-cab company claims that: “ Your passengers, and the driver and passengers of the other vehicles are covered but you are not covered by the company’s insurance policy”. The driver has to spend his or her own money in order to repair the vehicle and to get proper medical care.

Another antitrust violation is when taxi-cab companies create a direct phone line with a hotel. Inns of Virginia located at 3335 Lee Highway, Arlington, Virginia is an example. As a result, the hotel guests only get rides with taxi-cabs of that company, while excluding the others. This is a monopoly. Visitors and tourists do not have opportunity to call taxi-cab companies others than those offered by hotel valets and receptionists.

In violation of their own jurisdiction’s code, some hotels and motels prefer to partner with unlicensed drivers who sometimes rip off passengers in order to make money. According to District of Columbia taxi-cab drivers, when Quality Inn’s guests ask the receptionist to call a cab for them, hotel workers state the taxi-cab company put them “ on hold” and after 15 minutes an SUV or a Van (private vehicle) comes and the receptionist says: “Sir, this is your taxi driver.” Quality Inn located at 501 NE New York

Avenue NE, Washington, DC is an example.

Hotels sometimes might receive kickbacks from taxi-cab companies for that service.

Other hotel valets in New York, Miami Beach, Florida and other states sell taxi-cab fares (customers) directly to taxi-cab drivers for cash. Even if the guest needs a taxi-cab, valets do not release the fare unless the taxi-cab driver agrees to pay them \$5, \$8, \$10, \$15, \$20, \$30, kickback.

These antitrust violations problems that happen in hotels and motels around the country can only be solve by 49 USCS 5340 (e) (9) of the proposed bill. (See exhibit B).

At Fort-Lauderdale Hollywood International Airport, only Yellow Cab is allowed to pick up passengers at the airport while all the other companies can only drop off passengers. City and County governments took away the right of other companies to pick up anyone in any terminals. This is a monopoly and an unfair trade practice. See 49 USC Section 5340 (e) (8) of the proposed bill (See Exhibit B). The proposal can easily solve the problem. The county government can generate much money by charging each cab driver a \$2.00 airport charge, as they do at Miami International Airport and the Port of Miami. Also, be advised that a professional cab driver who works at Miami International Airport and the Port of Miami pays more than \$5,000.00 a year in city, county and state toll charges.

EXAMPLES OF MAJOR PROBLEMS

A major existing problem is that some jurisdictions allow medallion holders to pay by big taxi-cab companies for the use of their medallions. That creates monopoly, restrain free trade and eliminate competition. Medallions or permits should be restricted to use by those to whom they were issued, county-wide.

Other jurisdiction issued the medallion or permit at no cost directly to taxi-cab companies which provide daily rent, full lease or partial lease to taxi-cab drivers at an exorbitant price. After one or two years of owning those medallions or permits, taxi-cab companies resale them to taxi-cab drivers for a lump sum of money in the range of \$5,000.00 to more than

\$150,000.00. Taxi-cab companies later on, return and request more medallions or permits from city or county governments and do the same thing again.

This is antitrust problem, corruption, financial fraud and illegal earnings. Local government should stop behave this way because the drivers and the passengers suffer, exploit and pay for the consequence of their action.

Also in violation of federal code, sometimes at airports and seaports taxi-cab drivers are forced to pick up passengers with children under five years old in order to fulfill passengers needs when the cab has no child seat. Foreign travelers who are unaware of the child safety seat law usually feel discriminated against when taxi-cab drivers refuse to pick them up with their infants. We do not expect that our local governments are going to do anything about it.

It is urgent for DOJ, FTC, DOT and Congress to step up in order to solve the lack of civil rights enforcement, verbal harassment by law and code enforcement officers, inequality and other problems that exist in the taxi-cab industry. Extending the application of United States and international labor law standards to employees in the taxi-cab industry is a must. Congress should identify and address all obstacles which prevent their full application in order to promote social justice, fairness and to maintain a strong economy

In violation of U.S. code 49 USC Section 5302 (7),(10),(14) (See Exhibit C); some jurisdictions like Miami-Dade County allow a “ Passenger Motor Carrier” (PMC), which is an intercity, sightseeing and charter vehicle, to do intracity public transportation. Also, the county promote unfair and destructive practices by permitting PMC to compete with public transportation vehicle, transit and mass transportation vehicles which is prohibited by 49 USC Section 13101 (a),(1), (D), (F), and 49 USC Section 13101 (a), (2), (I), (J), and other sections of the U.S. code. (See Exhibit D).

This form of transportation (PMC), created by Miami-Dade County and the County Commission, picks up non pre-arranged fares daily at all hotels, motels and the Port-of-Miami, especially when cruise lines passengers are disembarking, which puts taxi-cabs and shuttle bus out of business. (See Exhibit G) Consequently, the Department of Justice and Department of transportation should order the following:

- 1- Passenger Motors Vehicles (PMC) shall not come into the Port of Miami or Miami International Airport unless if they have to drop off or pick up a pre-arranged passengers. See 49 USC Section 13102 (17) (Exhibit F)
- 2- If it is a drop off, they must drop the passengers off and leave the seaport or the airport immediately thereafter. They have no right to pick up anyone except pre-arranged passengers.
- 3- If it is a pick-up at the sea-port, the driver shall provide a list that has the full name, address, and passport number of his/her passenger, including the name of the vessel which brings the passengers at the seaport to a code or law enforcement officer who will verify the validity of the pick-up with the ship agent.

- A) The ship agent shall collect the full name, address, and passport number of each passenger who will take a sightseeing, intercity or charter vehicle and make the list available to law and code enforcement officers who are working at the Port of Miami.

It shall be unlawful for charter, sightseeing and intercity vehicles to pick up a non-prearranged passenger upon disembarking. Each ship shall have its pre-arranged passenger list located near the exit door of its own terminal. Violators shall be punished according to federal, state and local law.

- C) The names that are on the list of each driver as well as the list provided by the ship agent shall be typed with fourteen (14) point font and not hand-written.

- D) A pre-arranged fare shall be made 24 hours in advance of the pick-up date.
- E) No Passenger Motor Carrier (PMC) greeter shall be allowed at any seaports for any reason, as they have been proven to be a source of violation.

A major error that exists in Miami-Dade County Code is the fact that it includes “Jitney”, a fifteen (15) passenger vehicle which offers transit services to the public in specific routes, in the same category as sightseeing, intercity and charter transportation vehicles. The Federal Code is clear. Mass transportation, and transit transportation are “public transportation”. See 49 U.S.C. Section 5302 (7) and (14). As a result, the Jitney should be in the category in which it belongs, transit transportation, as city and county buses are.

U.S. Code 49 U.S.C. Section 13506 (a) (2) generally exclude the Secretary of Transportation and Surface Transportation Board from exercising jurisdiction over taxi-cab services. However, 49 U.S.C. 13506 (b) allows the Secretary of Transportation or Surface Transportation Board to exercise jurisdiction to carry out the transportation policy of Section 13101 when it is necessary. (See Exhibit E and D).

Today, all conditions and criteria of 49 U.S.C. Section 13506 (b) are met in order for the Secretary or the Board to enforce part of 49 U.S.C. Section 13101 in the taxi-cab industry because of major violations of 49 U.S.C. Section 13101 (a) (1) (B),(D),(F) and 49 U.S.C. Section 13101 (a) (2) (I), (J) caused by most cities and county governments nationwide. (See Exhibit E and D).

As the Secretary or the Board is reluctant to enforce the above codes, it is the duty of the antitrust Department of the Department of Justice to solve those problems and to deregulate taxi-cab medallions in the U.S. The hack license number or taxi operator's license number of the cab driver should also be the medallion number or permit number of the taxi-cab driver and

the licensed vehicle should be operated only by the taxi-cab driver it was assigned to.

A regulation like that will prevent too much taxi-cab on the road, stop investors and companies from monopolizing taxi-cab medallion or county permit, and keep the meter fare at its lowest cost. Cab drivers will spend less time on the road and economize more money. Residents, tourists, and economically disadvantaged individuals will save more money. More people living in big cities will find jobs. The unemployment rate will decrease because of millions of new self-employed that will be created nationwide.

INTERSTATE COMMERCE ASPECTS

Congress, US Department of Transportation, US Department of Commerce and US Department of Justice have the power to regulate this subject under the commerce clause of the US constitution. At the passenger's request, taxi-cabs usually cross state lines or several states in order to drop off their clients. For example, after September 11, 2001, several taxi-cab drivers in Miami, Florida received fares all the way to the State of New York and several other states because cruise line tourists and other travelers were afraid and scared to commute by air. Unfortunately, some of those taxi-cab drivers are paid less than half of the fare because Congress does not cover taxi-cab under interstate commerce.

Consider a \$3,000.00 taxi-cab fare after September 11, 2001 from Miami, Florida to Cincinnati, Ohio, ending up with the driver collecting only \$1,000.00 from the passenger. The driver did not have opportunity to collect even a part of the remaining 66.67% of the total cost of the fare. Also, taxi-cabs, which are operating in counties that are located close to or at the border of two or three different states always engage in interstate commerce daily, weekly or on a monthly or yearly basis.

Taxi-cab is the only reasonably-priced form of transportation we have that can bring you from point A to point B, whatever the road condition and at anytime. It is fast, quick, on time and can go anywhere. Anyone can use it countrywide. It is time to make it more affordable to all US citizens, residents, and visitors. Deregulate taxi-cab industry and the medallion as well as passing a federal legislation like this one is the first way to start.

This is why I need help from powerful organization like American Antitrust Institute, ABA, ACLU, NAACP and elected official like you in order to find a good way to have DOJ and Congress set a new standard in mass and public transportation. Taxi-Cabs should have a larger section in the United States Code than 49 USC 13102 (20) (A) (B) (i) (ii) and a better section than 49 USC Section 13506 (a) (2). The drivers and the public will be very thankful to you if you can help them reach their goal. The section 13506 (a) (2) of title 49 should be eliminated and changed.(See Exhibit F and E)

Hoping you will give my requests your best attention; I extend to you my sincere thanks and appreciation.

Very truly yours,



Joseph F. Bessard

P.S. If the system we are proposing currently works in Washington, D.C., why not the rest of the country?

Please help us spread the word!

If a meeting is needed to reach that goal, do not hesitate to contact us.

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49 USC Section 5340

(j) INSURANCE

- (1) Operator of mass transportation vehicle are encouraged to group under the umbrella of a company engaged in public transportation business in order to obtain low cost insurance for their vehicle, dispatching service, and other support.
- (2) Any institution is eligible to sell insurance to operator of mass transportation vehicle upon having a deposit of \$1,000,000.00 in bonds at the secretary of state's office of their respective state.
- (3) Each state shall set a maximum limit of liability coverage per vehicle.
- (4) The medallion and its vehicle are free from any liens and cannot be a part of compensation in any personal injury and civil lawsuit.

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49 USC Section 5340

(e) Special Provision.

- (1) Current medallion owners who do not wish to keep their medallion have until December 31, 2009 or three months from the date this law get approve by congress in order to inform county government their intention to sell it to a new operator licensee at the market value.
- (2) On October 1, 2009 or after three months from the date this law get approved by congress county government must inform their residents the quantity of medallions which are available to sell by advertising on the local newspaper. The medallion's number, the owner's name and address shall be available.
- (3) Before proceeding to provision in paragraph (d) (5), county government shall encourage new operators and those who do not fully satisfy section (d) (9) of the code to repurchase the medallion in special provision (e) (2) at the market value. Five years experience is not required.
- (4) The market value is the average sale price of the previous eight years. Each county shall examine their public record to find out the quantity of medallions sold in the year 2000. The sale prices for all medallions sold that year shall be totaled off and divided by the total number of medallions sold that year in order to determine the annual average value for the year. Repeat the same process for all subsequent years.
Total the annual average value found for the last eight years and divide it by eight, to determine the market value of the medallion for that county.
- (5) After all medallions reported on October 1, 2009 by county government are sold out, no one shall be eligible to own a medallion without having a valid operator license and having been in the mass transportation business for five years.
- (6) Under section 5310 and other sections of the code, county and state government shall help operators of mass transportation vehicle to

PROPOSED BILL**49 USC Section 5340**

obtain finance for their medallion and their vehicle at a low interest rate not to exceed 8% per annum regardless of credit score. Financing can also be done through a private financial institution or Small Business Administration (SBA loan).

- (7) Once all taxi operators stated in provision (d) (2) put their medallions and their vehicle in service or ninety days after this law get approved whatever comes first, county authority shall immediately hold a public meeting with all licensees in order to:
 - (A) Review and amend all the chapters of the county code pertaining to transportation.
 - (B) Reduce the meter fares and all flat rate zones from 10% to 30% upon agreement of all parties.
- (8) International airports and seaports shall provide a taxi lot or stand which should be able to hold at least 1,000 taxi cabs. They must be opened to any taxi cab of their county in order to pick up passengers, regardless of their company affiliation.
- (9) To prevent selling of taxi cab fares by valets, managers and owners of motel, hotels, condo, restaurants, apartments complex, public places and places with high demand for taxi cab:
 - (A) The front including all entrance and exit facing a public road of all hotels, motels, restaurants; apartments complex, condo, any non-public and public places with high demand for taxi cab shall equipped with a green or blue light flashing or non-flashing with the word "TAXI" in order to warn taxi drivers that there is a prospective customer ready for pick up.
 - (B) The light shall turn on, once the passenger is ready and stay on while waiting.
 - (C) The passenger shall be available for pick up by the first vehicle arriving on the premise if the institution has no taxi cab stand.

49 USC Section 5340

- (D) Unless otherwise requested by the passenger, the rule of first in first out must be observed if the institution has a taxi cab stand.
- (E) The light shall turn off, once the vehicle left the premise with the passenger.
- (F) Failure to turn the light on by the valets in time and those providing assistance to the passengers shall constitute a violation of the law and shall be subjected to fine by any law and code enforcement officers.
- (G) The switch of the light shall, also, be accessible to turn on by the passenger.
- (H) Anyone witnesses by any law or code enforcement officers buying or selling taxi cab fares, both the giver and the receiver shall receive a citation for \$500.00 each if it is their first offense.
 - 1) For second and more offenses, at the discretion of the court additional penalty or subsection (i) (6) shall be applied.
 - 2) If a fellow driver, a group of driver, an association or an organization is obligated to bring a law suit subsection (i) (6) of this code shall be applied if defendant lost.

EXHIBIT C

- (ii) excluding construction of a commercial revenue-producing facility (other than an intercity bus station or terminal) or a part of a public facility not related to public transportation;
- (H) the introduction of new technology, through innovative and improved products, into public transportation;
- (I) the provision of nonfixed route paratransit transportation services in accordance with section 223 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12143), but only for grant recipients that are in compliance with applicable requirements of that Act, including both fixed route and demand responsive service, and only for amounts not to exceed 10 percent of such recipient's annual formula apportionment under sections 5307 and 5311 [49 USCS §§ 5307 and 5311];
- (J) crime prevention and security--
 - (i) including--
 - (I) projects to refine and develop security and emergency response plans;
 - (II) projects aimed at detecting chemical and biological agents in public transportation;
 - (III) the conduct of emergency response drills with public transportation agencies and local first response agencies; and
 - (IV) security training for public transportation employees; but
 - (ii) excluding all expenses related to operations, other than such expenses incurred in conducting activities described in clauses (i)(III) and (i)(IV);
- (K) establishing a debt service reserve, made up of deposits with a bondholder's trustee, to ensure the timely payment of principal and interest on bonds issued by a grant recipient to finance an eligible project under this chapter; or
- (L) mobility management--
 - (i) consisting of short-range planning and management activities and projects for improving coordination among public transportation and other transportation service providers carried out by a recipient or subrecipient through an agreement entered into with a person, including a governmental entity, under this chapter [49 USCS §§ 5301 et seq.] (other than section 5309 [49 USCS § 5309]); but
 - (ii) excluding operating public transportation services.
- (2), (3) [Unchanged]
- (4) Fixed guideway. The term "fixed guideway" means a public transportation facility--
 - (A) using and occupying a separate right-of-way or rail for the exclusive use of public transportation and other high occupancy vehicles; or
 - (B) [Unchanged]
- (5) Individual with a disability. The term "individual with a disability" means an individual who, because of illness, injury, age, congenital malfunction, or other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semiambulatory capability), cannot use effectively, without special facilities, planning, or design, public transportation service or a public transportation facility.
- (6) [Unchanged]
- (7) Mass transportation. The term "mass transportation" means public transportation.
- (8) [Unchanged]
- (9) New bus model. The term "new bus model" means a bus model (including a model using alternative fuel)--
 - (A) that has not been used in public transportation in the United States before the date of production of the model; or
 - (B) used in public transportation in the United States, but being produced with a major change in configuration or components.
- (10) Public transportation. The term "public transportation" means transportation by a conveyance that provides regular and continuing general or special transportation to the public, but does not include schoolbus, charter, sightseeing, or intercity bus transportation or intercity passenger rail transportation provided by the entity described in chapter 243 [49 USCS §§ 24301 et seq.] (or a successor to such entity).
- (11)-(13) [Unchanged]
- (14) Transit. The term "transit" means public transportation.
- (15) Transit enhancement. The term "transit enhancement" means, with respect to any project or an area to be served by a project, projects that are designed to enhance public transportation service or use and that are physically or functionally related to transit facilities. Eligible projects are--
 - (A) historic preservation, rehabilitation, and operation of historic public transportation buildings, structures, and facilities (including historic bus and railroad facilities);
 - (B)-(E) [Unchanged]
 - (F) bicycle access, including bicycle storage facilities and installing equipment for transporting bicycles on public transportation vehicles;

CHAPTER 131. GENERAL PROVISIONS

Section

- 13101. Transportation policy
- 13102. Definitions
- 13103. Remedies as cumulative

HISTORY; ANCILLARY LAWS AND DIRECTIVES

Amendments:

1995. Act Dec. 29, 1995, P. L. 104-88, Title I, § 103, 109 Stat. 853 (generally effective 1/1/96, as provided by § 2 of such Act, which appears as 49 USCS § 701 note), added the chapter heading and chapter analysis.

1996. Act Oct. 11, 1996, P. L. 104-287, § 5(26)(B), 110 Stat. 3390, made a technical correction to the chapter heading.

§ 13101. Transportation policy

(a) In general. To ensure the development, coordination, and preservation of a transportation system that meets the transportation needs of the United States, including the United States Postal Service and national defense, it is the policy of the United States Government to oversee the modes of transportation and—

(1) in overseeing those modes—

(A) to recognize and preserve the inherent advantage of each mode of transportation;

(B) to promote safe, adequate, economical, and efficient transportation;

(C) to encourage sound economic conditions in transportation, including sound economic conditions among carriers;

(D) to encourage the establishment and maintenance of reasonable rates for transportation, without unreasonable discrimination or unfair or destructive competitive practices;

(E) to cooperate with each State and the officials of each State on transportation matters; and

(F) to encourage fair wages and working conditions in the transportation industry;

(2) in overseeing transportation by motor carrier, to promote competitive and efficient transportation services in order to—

- (A) encourage fair competition, and reasonable rates for transportation by motor carriers of property;
 - (B) promote efficiency in the motor carrier transportation system and to require fair and expeditious decisions when required;
 - (C) meet the needs of shippers, receivers, passengers, and consumers;
 - (D) allow a variety of quality and price options to meet changing market demands and the diverse requirements of the shipping and traveling public;
 - (E) allow the most productive use of equipment and energy resources;
 - (F) enable efficient and well-managed carriers to earn adequate profits, attract capital, and maintain fair wages and working conditions;
 - (G) provide and maintain service to small communities and small shippers and intrastate bus services;
 - (H) provide and maintain commuter bus operations;
 - (I) improve and maintain a sound, safe, and competitive privately owned motor carrier system;
 - (J) promote greater participation by minorities in the motor carrier system;
 - (K) promote intermodal transportation;
- (3) in overseeing transportation by motor carrier of passengers—
- (A) to cooperate with the States on transportation matters for the purpose of encouraging the States to exercise intrastate regulatory jurisdiction in accordance with the objectives of this part [49 USCS §§ 13101 et seq.];
 - (B) to provide Federal procedures which ensure that intrastate regulation is exercised in accordance with this part [49 USCS §§ 13101 et seq.]; and
 - (C) to ensure that Federal reform initiatives enacted by section 31138 and the Bus Regulatory Reform Act of 1982 are not nullified by State regulatory actions; and
- (4) in overseeing transportation by water carrier, to encourage and promote service and price competition in the noncontiguous domestic trade.
- (b) **Administration to carry out policy.** This part [49 USCS §§ 13101 et seq.] shall be administered and enforced to carry out the policy of this section and to promote the public interest.
- (Added Dec. 29, 1995, P. L. 104-88, Title I, § 103, 109 Stat. 853.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

References in text:

The “Bus Regulatory Reform Act of 1982”, referred to in this section, is Act Sept. 20, 1982, P. L. 97-261, 96 Stat. 1102. For full classification of such Act, consult USCS Tables volumes.

Effective date of section:

This section took effect on Jan. 1, 1996, pursuant to Act Dec. 29, 1995,

Am Jur Proof of Facts:

20 Am Jur Proof of Facts, Physical Examination of Commercial Vehicle Drivers, p. 411.

INTERPRETIVE NOTES AND DECISIONS

1. Applicability
2. "Primary business"
3. Corporation providing transportation for itself and affiliates
4. Venue
5. Miscellaneous

1. Applicability

Former 49 USCS § 10524(a) merely exempted motor private carriers from licensing, permit and certificate requirements imposed upon motor carriers by ICC [now Surface Transportation Board] pursuant to former 49 USCS §§ 10921 et seq.; it did not serve to deprive Department of Transportation of its power to regulate qualifications and maximum hours of service of employees of motor private carriers pursuant to 49 USCS § 3102(b)(2). *Friedrich v U.S. Computer Services* (1992, CA3 Pa) 974 F2d 409, 30 BNA WH Cas 1729, 123 CCH LC ¶ 35710.

2. "Primary business"

Primary business test, which is applied in interpreting the definition of a private carrier, is to the effect that if the primary business of an operator is the supplying of transportation for compensation, then the carrier status of the operator is established as that of a nonprivate carrier, and if the primary business of an operator is found to be some noncarrier commercial enterprise, then it must be determined whether the motor operations are in bona fide furtherance of the primary business or whether they are conducted as a related or secondary enterprise for which compensation is received. *Interstate Commerce Com. v V. S. C. Wholesale-Warehouse Co.* (1969, DC Idaho) 312 F Supp 542.

3. Corporation providing transportation for itself and affiliates

Corporation could set up its own subsidiary for sole purpose of providing transportation for itself and its affiliates and still claim exempt status as CIH carriers under former 49 USCS § 10524: such section clearly precluded interpretation that would per-

mit any entity other than corporate one to receive exemption for CIH activities. *American Trucking Assn. v Interstate Commerce Com.* (1982, CA11) 672 F2d 850.

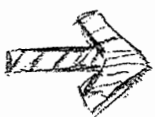
4. Venue

Venue of shipper's action to recover from carrier responsible for total loss of 3 presses when tractor-trailer jackknifed on highway ramp will be transferred from New York to South Carolina, where loss occurred, because 49 USCS § 14706(d)(2) applies since defendant, which is specialized transporter of property to extent of \$9 million in gross annual revenues, is for-hire carrier subject to Interstate Commerce Act (49 USCS §§ 13101 et seq.) and not exempt private motor carrier under § 13505. *Syracuse Plastics v Guy M. Turner, Inc.* (1997, ND NY) 959 F Supp 147.

5. Miscellaneous

Drive away service arrangement for trucks performed by plaintiff was not private carriage but common carriage by motor vehicle necessitating certificate of public convenience and necessity where: product moving in commerce was truck itself; plaintiff would select drivers, determine their qualifications, make them available to customer, transport them to place of pick up, pay for motel accommodations along road when layover is not due to customer's delays, and required its drivers to furnish their own meals, notwithstanding owner paid for gasoline, road tolls, and insurance; and plaintiff instructed driver in event of unexpected circumstances during trip and assumed financial loss of any damage to truck. *Professional Driver Services, Inc. v Interstate Commerce Com.* (1974, MD Tenn) 376 F Supp 536.

Natural gas well servicing company whose drivers carry tools and equipment in company-furnished pick-up trucks across state lines is private carrier of property by motor vehicle within meaning of former 49 USCS § 303(a)(17). *Sinclair v Beacon Gasoline Co.* (1976, WD La) 447 F Supp 5, *aff'd* (1978, CA5 La) 571 F2d 978.



§ 13506. Miscellaneous motor carrier transportation exemptions

(a) In general. Neither the Secretary nor the Board has jurisdiction under this part [49 USCS §§ 13101 et seq.] over—

- (1) a motor vehicle transporting only school children and teachers to or from school;

EXHIBIT E

- (2) a motor vehicle providing taxicab service;
- (3) a motor vehicle owned or operated by or for a hotel and only transporting hotel patrons between the hotel and the local station of a carrier;
- (4) a motor vehicle controlled and operated by a farmer and transporting—
 - (A) the farmer's agricultural or horticultural commodities and products; or
 - (B) supplies to the farm of the farmer;
- (5) a motor vehicle controlled and operated by a cooperative association (as defined by section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a))) or by a federation of cooperative associations if the federation has no greater power or purposes than a cooperative association, except that if the cooperative association or federation provides transportation for compensation between a place in a State and a place in another State, or between a place in a State and another place in the same State through another State—
 - (A) for a nonmember that is not a farmer, cooperative association, federation, or the United States Government, the transportation (except for transportation otherwise exempt under this subchapter [49 USCS §§ 13501 et seq.])—
 - (i) shall be limited to transportation incidental to the primary transportation operation of the cooperative association or federation and necessary for its effective performance; and
 - (ii) may not exceed in each fiscal year 25 percent of the total transportation of the cooperative association or federation between those places, measured by tonnage; and
 - (B) the transportation for all nonmembers may not exceed in each fiscal year, measured by tonnage, the total transportation between those places for the cooperative association or federation and its members during that fiscal year;
- (6) transportation by motor vehicle of—
 - (A) ordinary livestock;
 - (B) agricultural or horticultural commodities (other than manufactured products thereof);
 - (C) commodities listed as exempt in the Commodity List incorporated in ruling numbered 107, March 19, 1958, Bureau of Motor Carriers, Interstate Commerce Commission, other than frozen fruits, frozen berries, frozen vegetables, cocoa beans, coffee beans, tea, bananas, or hemp, or wool imported from a foreign country, wool tops and noils, or wool waste (carded, spun, woven, or knitted);
 - (D) cooked or uncooked fish, whether breaded or not, or frozen or fresh shellfish, or byproducts thereof not intended for human consumption, other than fish or shellfish that have been treated for preserving, such as canned, smoked, pickled, spiced, corned, or kippered products; and
 - (E) livestock and poultry feed and agricultural seeds and plants, if such products (excluding products otherwise exempt under this paragraph) are transported to a site of agricultural production or to a business enterprise engaged in the sale to agricultural producers of goods used in agricultural production;

EXHIBIT E

49 USCS § 13506

TRANSPORTATION

- (7) a motor vehicle used only to distribute newspapers;
- (8)(A) transportation of passengers by motor vehicle incidental to transportation by aircraft;
- (B) transportation of property (including baggage) by motor vehicle as part of a continuous movement which, prior or subsequent to such part of the continuous movement, has been or will be transported by an air carrier or (to the extent so agreed by the United States and approved by the Secretary) by a foreign air carrier; or
- (C) transportation of property by motor vehicle in lieu of transportation by aircraft because of adverse weather conditions or mechanical failure of the aircraft or other causes due to circumstances beyond the control of the carrier or shipper;
- (9) the operation of a motor vehicle in a national park or national monument;
- (10) a motor vehicle carrying not more than 15 individuals in a single, daily roundtrip to commute to and from work;
- (11) transportation of used pallets and used empty shipping containers (including intermodal cargo containers), and other used shipping devices (other than containers or devices used in the transportation of motor vehicles or parts of motor vehicles);
- (12) transportation of natural, crushed, vesicular rock to be used for decorative purposes;
- (13) transportation of wood chips;
- (14) brokers for motor carriers of passengers, except as provided in section 13904(d); or
- (15) transportation of broken, crushed, or powdered glass.

(b) **Exempt unless otherwise necessary.** Except to the extent the Secretary or Board, as applicable, finds it necessary to exercise jurisdiction to carry out the transportation policy of section 13101, neither the Secretary nor the Board has jurisdiction under this part [49 USCS §§ 13101 et seq.] over—

- (1) transportation provided entirely in a municipality, in contiguous municipalities, or in a zone that is adjacent to, and commercially a part of, the municipality or municipalities, except—
 - (A) when the transportation is under common control, management, or arrangement for a continuous carriage or shipment to or from a place outside the municipality, municipalities, or zone; or
 - (B) that in transporting passengers over a route between a place in a State and a place in another State, or between a place in a State and another place in the same State through another State, the transportation is exempt from jurisdiction under this part [49 USCS §§ 13101 et seq.] only if the motor carrier operating the motor vehicle also is lawfully providing intrastate transportation of passengers over the entire route under the laws of each State through which the route runs;
- (2) transportation by motor vehicle provided casually, occasionally, or reciprocally but not as a regular occupation or business, except when a broker or other person sells or offers for sale passenger transportation

EXHIBIT E

INTERSTATE TRANSPORTATION

49 USCS § 13506

provided by a person authorized to transport passengers by motor vehicle under an application pending, or registration issued, under this part [49 USCS §§ 13101 et seq.]; or

(3) the emergency towing of an accidentally wrecked or disabled motor vehicle.

(Added Dec. 29, 1995, P. L. 104-88, Title I, § 103, 109 Stat. 861; Nov. 20, 1997, P. L. 105-102, § 2(8), 111 Stat. 2204; Nov. 26, 2002, P. L. 107-298, § 3(b)(1), 116 Stat. 2343.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

Prior law and revision:

PUB. L. 105-102

This amends 49:13506(a)(5) to correct a grammatical error.

Effective date of section:

This section took effect on January 1, 1996, pursuant to § 2 of Act Dec. 29, 1995, P. L. 104-88, which appears as 49 USCS § 701 note.

Amendments:

1997. Act Nov. 20, 1997, in subsec. (a)(5), substituted "1141j(a))" for "1141j(a)".

2002. Act Nov. 26, 2002, in subsec. (a), substituted para. (2) for one which read: "(2) a motor vehicle providing taxicab service and having a capacity of not more than 6 passengers and not operated on a regular route or between specified places;".

Other provisions:

Abolition of Interstate Commerce Commission. the Interstate Commerce Commission was abolished by § 101 of Act Dec. 29, 1995, P. L. 104-88, which appears as 49 USCS § 701 note.

CODE OF FEDERAL REGULATIONS

Federal Motor Carrier Safety Administration, Department of Transportation—
Exemptions, commercial zones, and terminal areas, 49 CFR Part 372.

CROSS REFERENCES

This section is referred to in 49 USCS § 13507, 13508, 13908.

RESEARCH GUIDE

Am Jur:

13 Am Jur 2d, Carriers § 85.

Am Jur Proof of Facts:

20 Am Jur Proof of Facts, Physical Examination of Commercial Vehicle Drivers, p. 411.

INTERPRETIVE NOTES AND DECISIONS

I. IN GENERAL

1. Generally
2. Effect of exemption
3. Judicial review
4. Miscellaneous

II. PARTICULAR EXEMPTIONS

- A. Municipal Area Transportation
5. Generally
6. Municipality defined ✓

EXHIBIT F

The term does not include a person using transportation of an air carrier subject to part A of subtitle VII [49 USCS §§ 40101 et seq.].

(9) Highway. The term "highway" means a road, highway, street, and way in a State.

(10) Household goods. The term "household goods", as used in connection with transportation, means personal effects and property used or to be used in a dwelling, when a part of the equipment or supply of such dwelling, and similar property if the transportation of such effects or property is—

(A) arranged and paid for by the householder, except such term does not include property moving from a factory or store, other than property that the householder has purchased with the intent to use in his or her dwelling and is transported at the request of, and the transportation charges are paid to the carrier by, the householder; or

(B) arranged and paid for by another party.

(11) Household goods freight forwarder. The term "household goods freight forwarder" means a freight forwarder of one or more of the following items: household goods, unaccompanied baggage, or used automobiles.

(12) Motor carrier. The term "motor carrier" means a person providing motor vehicle transportation for compensation.

(13) Motor private carrier. The term "motor private carrier" means a person, other than a motor carrier, transporting property by motor vehicle when—

(A) the transportation is as provided in section 13501 of this title;

(B) the person is the owner, lessee, or bailee of the property being transported; and

(C) the property is being transported for sale, lease, rent, or bailment or to further a commercial enterprise.

(14) Motor vehicle. The term "motor vehicle" means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used on a highway in transportation, or a combination determined by the Secretary, but does not include a vehicle, locomotive, or car operated only on a rail, or a trolley bus operated by electric power from a fixed overhead wire, and providing local passenger transportation similar to street-railway service.

(15) Noncontiguous domestic trade. The term "noncontiguous domestic trade" means transportation subject to jurisdiction under chapter 135 [49 USCS §§ 13501 et seq.] involving traffic originating in or destined to Alaska, Hawaii, or a territory or possession of the United States.

(16) Person. The term "person", in addition to its meaning under section 1 of title I, includes a trustee, receiver, assignee, or personal representative of a person.

(17) Pre-arranged ground transportation service. The term "pre-arranged ground transportation service" means transportation for a passenger (or a group of passengers) that is arranged in advance (or is operated on a regular route or between specified points) and is provided in a motor vehicle with a seating capacity not exceeding 15 passengers (including the driver).

(18) Secretary. The term "Secretary" means the Secretary of Transportation.

[REDACTED]

"If they ask you
any questions, tell
them the reservation
was pre-arranged"

I didn't pre-arrange
any fare, he
approached me in
the taxi line

BEN WADE

[REDACTED]

[REDACTED]

[REDACTED]

MIAMI SUBSTATION
TRANSPORTATION

786-4612-9255

[REDACTED]

Above is a statement giving by Mr. Ben Wade and his wife from Roswell, Georgia on or about 12/28/09 after having a bad experience with a Passenger Motor Carrier (PMC) at the Port of Miami. The PMC's driver holds them for more than one hour inside the vehicle. They almost lost their flight. At the end, they decided to take their luggage and a taxi-cab to Miami International airport.

Statement:

PMC Driver: "If they ask you any questions, tell them the reservation was prearranged"

Ben Wade: "I didn't prearranged any fare, he approved me in the taxi line"

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Exhibit H

49 USCS § 13506, n 5

TRANSPORTATION

While motor common carriers having authority to serve given municipality may serve all points within commercial zone of that municipality, commercial zone regulation cannot be interpreted so as to nullify express restriction in certificate; thus, when carrier is authorized to serve Lexington, but authority is expressly restricted against service between Lexington and Louisville, carrier cannot tack restricted route with other routes to serve Louisville, and despite fact that carrier can tack restricted route so as to serve certain points adjacent to Louisville, and including Louisville within their commercial zones, it cannot utilize commercial zone regulations to serve Louisville in violation of restriction. *Overnite Transp. Co. v. Eagle Exp. Co., Inc.*, 129 MCC 694.

6. Municipality defined

The cities of Windsor, Ontario, and Detroit, Michigan, are contiguous municipalities within the meaning of former 49 USCS § 303(b)(8). *Verbeem v United States* (1957, DC Mich) 154 F Supp 431, affd (1958) 356 US 676, 2 L Ed 2d 1072, 78 S Ct 1006.

Excluding New England type towns from term "municipality," as used in former 49 USCS § 303, was not contrary to intent of Congress; construction of term "municipality" as relating to governmental divisions which were essentially urban in character and not including type of town which was not essentially urban did not discriminate against particular area of country, and this interpretation was not violative of National Transportation Act. *Palmer Lines, Inc. v United States* (1959, DC Mass) 179 F Supp 629.

7. Common control, management or arrangement

For motor carrier to avail itself of former 49 USCS § 303(b)(8) commercial zone exemption, two conditions must be met: (1) transportation must take place wholly within municipality or between contiguous municipalities or within zone adjacent to and commercially part of such municipality and municipalities, and (2) transportation must not be performed under common control, management, or arrangement for continuous carriage to or from point without municipality, municipalities, or zones: common control, management, or arrangement contemplated by former § 303(b)(8) is one between carriers participating in through transportation, so that separate arrangements made by shipper with carriers performing through movement from or to point located outside involved zone does not void exemption. *Triangle Trucking Co.*, 128 MCC 386.

Where motor carriers' services were purely local in area, there was no common control, management or arrangement between defendants and carrier which transported shipments for ultimate delivery in another state, and shipment did not move under joint through rate or through bill of lading, but under

shipping receipt consigned to such delivering carrier, local carriers were exempt from former 49 USCS §§ 1-5, 5b-15a, 16, 17-23, 26, 27, 301-305, 306-327, 901-923, 1001-1022 and could limit their liability without obtaining released rates order from the commission. *Roseweb Frocks, Inc. v Rose* (1945, Mun Ct) 52 NYS2d 901.

Carriage by carrier from yards in town of Cheektowaga to its terminal, thence to L.B. Smith Plaza & Kresge Store and back to railroad yard was entirely within commercial zone of city of Buffalo and exempt from Interstate Commerce Commission [now Surface Transportation Board] and Public Service Commission regulations unless element of common control or arrangement was present. *Lumbermens Mut. Lumbermens Mut. Casualty Co. v Travelers Ins. Co.* (1974, 4th Dept) 45 App Div 2d 24, 355 NYS2d 870.

8. State regulation of municipal transportation

Municipal ordinance providing for regulation of public passenger vehicles for hire is invalid in so far as it requires corporation, organized at request of interstate railroads for purpose of transporting passengers between railroad stations within city, to secure certificate of convenience and necessity before it can operate; provisions of Interstate Commerce Act which establish motor vehicle service between railroad terminals as integral part of interstate transportation subject to regulation under the Interstate Commerce Act preclude municipality from exercising veto power over such transfer service when performed by the railroads or their chosen agents. *Chicago v Atchison, T. & S. F. R. Co.* (1958) 357 US 77, 2 L Ed 2d 1174, 78 S Ct 1063 (ovrld on other grounds as stated in *Harrington v Bush* (1977, App DC) 180 US App DC 45, 553 F2d 190).

Under Interstate Commerce Act, city ordinance which establishes comprehensive scheme for licensing public passenger vehicles, providing criminal sanctions for operation without license and requiring that licensee maintain its principal place of business in city, employ only city residents as drivers, file annual detailed financial reports, and open its books and records for city inspection, cannot be validly applied to transfer service company engaged, under contract with railroads, in transporting interstate railroad passengers by motor vehicles between rail terminals in city. *Railroad Transfer Service, Inc. v Chicago* (1967) 386 US 351, 18 L Ed 2d 143, 87 S Ct 1095.

9. Casual, occasional or reciprocal transportation

Provision of former 49 USCS § 303 exempting casual, occasional, or reciprocal transportation of passengers and property by persons not engaged in transportation as regular occupation or business is not so vague and indefinite as to offend Due Process Clause (Const. amend. 14, § 1), words used having well understood meaning. *Martin v United States*

CHAPTER 53. MASS TRANSPORTATION

Sec.

- 5301. Policies, findings, and purposes
- 5302. Definitions
- 5303. Metropolitan planning
- 5304. Transportation improvement program
- 5305. Transportation management areas
- 5306. Private enterprise participation in metropolitan planning and transportation improvement programs and relationship to other limitations
- 5307. Urbanized area formula grants
- 5308. Clean fuels formula grant program
- 5309. Capital investment grants and loans
- 5310. Formula grants and loans for special needs of elderly individuals and individuals with disabilities
- 5311. Formula grant [grants] for other than urbanized areas
- 5312. Research, development, demonstration, and training projects.
- 5313. State planning and research programs
- 5314. National planning and research programs
- 5315. National transit institute
- [5316, 5317. Repealed]
- 5318. Bus testing facility
- 5319. Bicycle facilities
- 5320. Suspended light rail system technology pilot project
- 5321. Crime prevention and security
- 5322. Human resource programs
- 5323. General provisions on assistance
- 5324. Limitations on discretionary and special needs grants and loans
- 5325. Contract requirements
- 5326. Special procurements
- 5327. Project management oversight
- 5328. Project review
- 5329. Investigation of safety hazards
- 5330. Withholding amounts for noncompliance with safety requirements
- 5331. Alcohol and controlled substances testing
- 5332. Nondiscrimination
- 5333. Labor standards
- 5334. Administrative provisions
- 5335. Reports and audits
- 5336. Apportionment of appropriations for formula grants
- 5337. Apportionment of appropriations for fixed guideway modernization
- 5338. Authorizations

[5339. Federal share for Alaska Railroad grantee]

5340 (Proposed - See attached)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

Explanatory notes:

The bracketed word "grants" has been inserted in item 5311 to indicate the word probably intended by Congress.

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Proposed Bill

PROPOSED NEW SECTION OF LAW

49 USC Section 5340

(a) General findings.

- (1) The United States of America shall maintain a strong economy.
 - (2) State budgets are suffering because of the growing number of housing units in foreclosure, the rise of unemployment and massive budget deficits;
 - (3) States are cutting funds hurting educational and health care systems as well as numerous social programs;
 - (4) Residents who are experiencing financial problems are increasingly not able to commute in urban areas;
 - (5) State and county governments are threatening to increase sale taxes and other taxes because of massive budget deficits;
 - (6) Residents and economically disadvantaged individuals are increasingly attempting to bargain for lower taxi fares and taxi operators are not able to bring their fares down due to their weekly taxi expenses.
 - (7) Immediate intervention is needed to address the concern and goals of USCS 49 Section 5301 (b) (2) (3) (4) (5) (7) (9), (c), (d), Section 5302 (a) (7) (10), Section 5501 (a) (b) in order to guarantee a better mass transportation system to all residents and stable economic growth.
- (b)** Therefore, as provided in USCS 49 Section 5302 (a) (7) (10) the definition of “mass transportation” shall be amended to include:
“Taxi cab”

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(c) Taxi cab drivers' rights

Taxi cab drivers shall have the rights to:

- (1) Pick up and drop off passengers anywhere in the county where their vehicle has been licensed to operate without restriction;
- .(2) Drop off anywhere in the country upon agreement with the passengers but cannot pick up passengers outside of the licensing county unless it is a “come-back passenger” / “continuation” or there is a crisis/act of God within their own or neighboring county such as:
 - (A) Hurricane
 - (B) Earthquake
 - (C) Shortage of fuel
 - (D) Flood
 - (E) Storm
 - (F) Tornado
 - (G) Terrorist act

(d) General Provisions

- (1) To prevent bribery, distribution of medallions through a lottery system is prohibited.
- (2) Any holder of a valid taxi operator's license of a mass transportation vehicle having at least five years experience prior to September 27, 2009 or on the date this law get approved by congress and willing to own a medallion; shall not denied that request for any reason. Such request must be approved upon payment in full of the value of the medallion as provided in the county code within 300 days . The local government shall use the capital amount of money raised from the sale of medallions to finance their school system, health care system, and other social programs.
- (3) If the mass transportation vehicle uses a clean fuel formula as prescribed in 49 USCS Section 5308 (a) (1) (A) the county must give

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a 40% discount from the regular price of the medallion. In addition, another 10% shall be given if the same vehicle is wheelchair accessible.

- (4) In the event a medallion holder dies, his/her heirs shall have up to six months to sell the medallion to a qualified taxi operator, but after that period, the county shall have the power to repossess the medallion if it is not sold to a qualified operator non-medallion holder.
- (5) In the county where the medallion has high monetary value, If a person is authorized to operate a mass transportation vehicle “taxi cab”, the county government shall have the power to lease one medallion to the operator for the first five years upon the taxi operator and county agreeing to a monthly or yearly payment arrangement. Payment shall be made to the local government of the county not to exceed \$10,000.00 a year of which half shall fund the school board and the other shall fund the health care system of the county. After that period of time, five years, the operator automatically owns the medallion.
- (6) A licensee has the right to lease directly from the county or a mass transportation company or a medallion holder.
- (7) All medallion holders shall pay a yearly renewable fees not to exceed \$600.00 in which \$200.00 or one third (1/3) shall fund the school board in order to promote tutoring, after school programs and other programs, \$200.00 or one third (1/3) shall fund the health care system in order to help taxi operators, their relatives, and residents with medical bills; and the other \$200.00 or one third (1/3) shall go to the county general fund.
- (8) Any medallion holder may choose not to renew his or her medallion, upon informing the county authority in writing, if he or she is going to spend a year or more out of the public transportation business or not planning to lease the medallion to:
 - (A) A qualified licensee or operator of a mass transportation vehicle, or

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- (B) A mass transportation commercial institution.
- (9) Requirements to own a medallion are:
- (A) Have a valid taxi operator’s license during the five years preceding the application date, and
 - (B) Payment in full of the value provided in the county code.
- (10) All mass transportation vehicles “taxi cab” shall be equipped with a global positioning system “GPS”, an electronic taximeter with printing capability and at least two child safety seats for children five years old and under.
- (11) It shall be unlawful for commercial vehicles and any other type of vehicles except taxi cabs, county and city buses to pick up fares at the airport unless it is a prearranged fare twenty-four (24) hours in advance . If a right that is contrary to this section of the code has been previously given to a commercial vehicle carrier or any other type of carriers which usually charged passengers flat rate price per individual, this right shall only be allowed when there is an economically disadvantaged individual struggling for low rate, and the total fare is much lower than the price offer by mass transportation vehicle “taxi cab“. Unless otherwise requested by the traveler, if it is two passengers going to the same address, they should ride on a mass transportation vehicle “taxi cab” as the cost of the trip for two passengers almost always beats the price available by a commercial and other type of vehicle. In general, mass transportation vehicle “taxi cab” has no waiting time after the passenger finishes boarding the vehicle. Their trips are fast and quick.
- (A) Passengers have the right to know the best price available for their destination including waiting time, cost and traveling time.
- (12) All airports and seaports shall clearly display on a comparable chart

an estimation of:

- (A) Waiting time;
- (B) Traveling time;
- (C) Price

From the port to each zone of the county between mass transportation vehicle “taxi cab”, allowable commercial vehicle “shuttle” if any, city or county bus.

Travelers have the right to know the best available fare for their trip.

(e) Special Provision.

- (1) Current medallion owners who do not wish to keep their medallion have until December 31, 2009 or three months from the date this law get approve by congress in order to inform county government their intention to sell it to a new operator licensee at the market value.
- (2) On October 1, 2009 or after three months from the date this law get approved by congress county government must inform their residents the quantity of medallions which are available to sell by advertising on the local newspaper. The medallion’s number, the owner’s name and address shall be available.
- (3) Before proceeding to provision in paragraph (d) (5), county government shall encourage new operators and those who do not fully satisfy section (d) (9) of the code to repurchase the medallion in special provision (e) (2) at the market value. Five years experience is not required.
- (4) The market value is the average sale price of the previous eight years. Each county shall examine their public record to find out the quantity

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of medallions sold in the year 2000. The sale prices for all medallions sold that year shall be totaled off and divided by the total number of medallions sold that year in order to determine the annual average value for the year. Repeat the same process for all subsequent years.

Total the annual average value found for the last eight years and divide it by eight, to determine the market value of the medallion for that county.

- (5) After all medallions reported on October 1, 2009 by county government are sold out, no one shall be eligible to own a medallion without having a valid operator license and having been in the mass transportation business for five years.
- (6) Under section 5310 and other sections of the code, county and state government shall help operators of mass transportation vehicle to obtain finance for their medallion and their vehicle at a low interest rate not to exceed 8% per annum regardless of credit score. Financing can also be done through a private financial institution or Small Business Administration (SBA loan).
- (7) Once all taxi operators stated in provision (d) (2) put their medallions and their vehicle in service or ninety days after this law get approved whatever comes first, county authority shall immediately hold a public meeting with all licensees in order to:
 - (A) Review and amend all the chapters of the county code pertaining to transportation.
 - (B) Reduce the meter fares and all flat rate zones from 10% to 30% upon agreement of all parties.
- (8) International airports and seaports shall provide a taxi lot or stand which should be able to hold at least 1,500 taxi cabs. They must be opened to any taxi cab of their county in order to pick up passengers, regardless of their company affiliation.
- (9) To prevent selling of taxi cab fares by valets, managers and owners of

motel, hotels, condo, restaurants, apartments complex, public places and places with high demand for taxi cab:

- (A) The front including all entrance and exit facing a public road of all hotels, motels, restaurants; apartments complex, condo, any non-public and public places with high demand for taxi cab shall equipped with a green or blue light flashing or non-flashing with the word "TAXI" in order to warn taxi drivers that there is a prospective customer ready for pick up.
- (B) The light shall turn on, once the passenger is ready and stay on while waiting.
- (C) The passenger shall be available for pick up by the first vehicle arriving on the premise if the institution has no taxi cab stand.
- (D) Unless otherwise requested by the passenger, the rule of first in first out must be observed if the institution has a taxi cab stand.
- (E) The light shall turn off, once the vehicle left the premise with the passenger.
- (F) Failure to turn the light on by the valets in time and those providing assistance to the passengers shall constitute a violation of the law and shall be subjected to fine by any law and code enforcement officers.
- (G) The switch of the light shall, also, be accessible to turn on by the passenger.
- (H) Anyone witnesses by any law or code enforcement officers buying or selling taxi cab fares, both the giver and the receiver shall receive a citation for \$500.00 each if it is their first offense.
 - 1) For second and more offenses, at the discretion of the court additional penalty or subsection (i) (6) shall be applied.

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- 2) If a fellow driver, a group of driver, an association or an organization is obligated to bring a law suit subsection (i) (6) of this code shall be applied if defendant lost.
- (I) When a taxi-cab driver picks up a passenger in a flat rate or fixed rate zone to another flat rate or fixed rate zone, if there is a continuance outside or inside that same zone, the taxi-cab driver has the right to charge an additional meter fare whatever the distance traveled.
- (J) If a taxi-cab driver picks up a passenger in a flat rate or fixed rate zone to another flat rate or fixed rate zone, if the passenger decide to make a stop on the way before the final destination for any reason, the driver has the right to impose a meter fare.
- (K) Assaulting, attacking, robbing and killing a taxi-cab driver in the line of duty is a criminal offense punishable from twenty-five years to life. Where state law provides a harsher sentence, it should apply at the discretion of the court.
- (L) Taxi-cab drivers shall have basic knowledge about searching the world-wide web and be able to maintain an e-mail account for continuing education.

(f) Governance

In each county, there shall exist a separate institution in order to regulate land transportation with the following power to:

- (1) Oversee any works archived by airport and seaport code and law enforcement officer pertaining to mass and public transportation.
- (2) Put unsafe vehicles out of service.
- (3) Handle complaints of any kind which pertain to charter and

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shuttle service, mass and public transportation including those happening in airport and seaport.

(A) Any unresolved problem including violation of US code, national transportation policy and unconstitutional ordinance, code or statutes shall be addressed to the appropriate federal transit administration offices or federal surface transportation board or a court of law.

(4) Prepare new proposal for future code or ordinance to the board of county commissionaire concerning the operation of mass and public transportation as well as charter and shuttle service. A copy of such proposal shall distribute to each institution, association and organization of that county which involve in transportation at least thirty days before and after approval.

(5) Create new taxi-cab stand as needed, upon requested by residents, associations and organizations of such county.

(6) Regulate taxi-cab lease, daily rent, twelve hours rent, and the taxi-cab fare with the approval of the governing board of the county.

(A) Two types of lease shall be considered.

(i). Full lease which include vehicle, medallion and insurance.

(ii) Partial lease, which include the taxi-cab Medallion without vehicle, with or without insurance.

(B) Daily rent and twelve hours rent are for drivers who

because of their full time jobs or other activities occasionally drive a taxi-cab and are not willing to sign a leasing agreement.

(g) Safety

- (1) For the safety of the driver and the passengers, any operator of a mass transportation vehicle has the right to install a surveillance video camera to monitor inside and outside of the vehicle. No one has the right to get access to the content of the tape without the full approval of the operator.
- (2) Operators of mass transportation vehicles “taxi cab drivers” may choose to have a bullet-proof cabin which separates the passengers and the chauffeur for safety purposes.
- (3) The outside of the vehicle shall be equipped with two dark mauve lights, one in front and the other in the rear in order to warn law enforcement, pedestrians and operators of other vehicles that there is an emergency situation inside the vehicle.

(h) REMEDY

- (1) Taxi operators who are accused of violating any law or ordinance related to the operation of taxi cab shall have the right to contest the accusation in a court of law, and be accorded the same due process rights as exist for accused traffic law violators. No special court shall exist to provide those hearings.
- (2) To complain of discrimination problems, abuse of power, losing business involuntarily because of fault or misconduct of an authority, taxi operators or mass transportation operators shall follow the same procedure prescribed in 49 USCS 5332 et seq. in order to protect their rights.

(i) RESERVE

- (1) State and county government shall not put additional forms of transportation in Airports and Seaports in competition with mass transportation vehicles “taxicab” because their prices and their

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charges are regulated by county government. Taxi cabs are the experts in airport and seaport. They are the heart of mass and public transportation. Their trips are fast and quick. They have no waiting time once the passengers finish to board the vehicle.

- (2) In locations such as airports and seaports, where mass transportation vehicles “taxi cabs” are operated, commercial motor vehicles and all other type of vehicles shall pick up only prearranged fares twenty-four (24) hours in advance for sightseeing, airport or hotel or a specific place. Where there is a need to serve economically disadvantaged individuals, city and county busses shall have bus stops in those areas in order to fulfill those needs.
- (3) Taxi operator license or hack license or chauffeur license is renewable every six years. It shall not have at any times, any strings, restrictions or endorsements attach to it.
- (4) Taxi operators or operators of mass transportation vehicle are considered to be self employed.
- (5) Cash payment shall be the regular form of payment for all taxi fares. However, upon agreement and at the driver options. Passengers could pay with money order, checks or credit cards.
- (6) A civil penalty of \$500.00 per passenger pick up but not to exceed \$2,500.00 per occurrence and a fine from \$5000.00 to 10,000.00, plus court cost and attorney fees shall be paid by a commercial motor vehicles, transportation vehicles, school bus, charter bus, sightseeing, intercity bus transportation or intercity passenger rail transportation provided by entity described in chapter 243 [49 USCS 24301 et seq.] (or a successor to such entity) which provide illegal mass transportation service.
- (7) The following requirements for a vehicle to be used as taxicab are:
 - (A) The vehicle must have seats including seat belt for no more than eight passengers including the driver.

(B) It shall not be no more than eight years old.

(j) INSURANCE

- (1) Operator of mass transportation vehicle are encouraged to group under the umbrella of a company engaged in public transportation business in order to obtain low cost insurance for their vehicle, dispatching service, and other support.
- (2) Any institution is eligible to sell insurance to operator of mass transportation vehicle upon having a deposit of \$1,000,000.00 in bonds at the secretary of state's office of their respective state.
- (3) Each state shall set a maximum limit of liability coverage per vehicle.
- (4) The medallion and its vehicle are free from any liens and cannot be a part of compensation in any personal injury and civil lawsuit.

(k) Medallion and non-medallion system

- (1) County residents shall have the right to select a medallion or non-medallion system in order to keep the taxicab fares more affordable to all commuters. In order to switch from one system to another:
 - (A) Should the governing board of the county reject the switch, then they must call a referendum upon request by a minimum of 2.0% of registered voters required by the county.
 - (B) More than 50% of the voters shall approve the system in order for the switch to take effect.
 - (C) In a non-medallion system, a vehicle for hire license with a valid identification number shall issue to the driver after completing his hack or operator or chauffeur license if the driver willing to have it.

- (D) In a non-medallion system, the owner of a vehicle for hire license prescribed in 49 USCS 5340 (k) (1) (C) shall return the vehicle for hire license to county authority if he or she definitely stopped to be in mass and public transportation business.
 - (E) Whatever the system in effect in a county, 49 USCS 5340 (d) (7) (10); (j) (1) shall be respected.
 - (F) Whenever any county has sufficient taxicab operators, county authority shall stop issuing new taxicab operator licenses and close the new operator license exam by displaying on its website and in its office: “New Taxicab operator license exam is closed indefinitely”. However, active and former cab drivers shall have the right to renew their operator license as needed. Once there is need for new drivers, county authority shall resume all new taxicab operator license exams.
- (2) For the next twenty years, new medallion and non-medallion owner shall put in service a well equipped hybrid or clean fuel formula vehicle for hire in service for the public with:
- (A) Eight passenger seats including the driver.
 - (B) An EPA estimated fuel economy minimum of 22 miles per gallon highway and 21 miles per gallon city.
 - (C) Three child safety seats, preferable all in one for children five years old and under.
 - (D) Wheel chair accessible preferable front seat.

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