



September 16, 2007

Summary of Effort to Resolve Problems Experienced in the Provision of Prearranged Interstate Passenger Transportation Service

The for-hire vehicle industry is made up of 18,600 companies that provide local, for-hire passenger transportation service. The services that make up the for-hire vehicle industry include taxicab, black car, airport shuttle, executive sedan, limousine, paratransit, non-emergency medical, and livery. The companies that provide these services operate 254,000 vehicles and transport over 2 billion passengers per year.

The various segments of the for-hire vehicle industry are regulated either at the state, county, or municipal level of government. For example, limousines are typically regulated at the state level and have minimal regulation, while taxicabs are typically regulated at the municipal level and have to meet extensive requirements. Enforcement of the regulations is generally handled at the same level of government that issues the authorizing permit. Licenses issued at the state level are typically enforced by the state police or the state public utilities commission, and local licenses are typically enforced by the local police departments. Regardless of which governmental agency issues the license, all agencies charge a licensing fee and typically provide a decal or license plate that is readily visible to enforcement officials.

To protect public safety, vehicles that are not licensed to provide local, for-hire transportation service are prevented from making passenger pick-ups in that locality. The penalties for an illegal pick-up range from a nominal fine to impoundment of the vehicle and a large fine. This form of enforcement is practiced nearly universally and is supported by a vast majority of the for-hire vehicle industry.

The federal government does not regulate the for-hire vehicle industry except when a trip crosses a state line, at which point many carriers become subject to the Federal Motor Carrier Safety Regulations.

Problem From For-Hire Operator's View

Operators who were legitimately licensed in their state of operation were also required, in many instances (e.g., New York City, Washington, D.C., Las Vegas), to obtain a license from a licensing authority in an adjacent state in order for that operator to be able to make a prearranged pick-up of their passenger in the adjacent state to bring them back to a location in the originating state.

For example, a limousine company that was licensed in New Jersey could legitimately take its passenger to a meeting in New York City. However, unless that New Jersey limousine company also licensed its vehicles in New York City, the New York City Taxi & Limousine Commission (TLC) prohibited the company from picking up the passenger in New York City and returning him/her to a location in New Jersey. If the New Jersey based and licensed company did pick up in New York City without obtaining a permit from the city, then the TLC could put the passenger out of the vehicle and make them find another form of transportation, impound the vehicle, and fine both the company and the driver.

In our view, this restriction of interstate transportation was unconstitutional, but it was too expensive to litigate. Thus, we sought a statutory solution.

Proposed Resolution

Even though the for-hire vehicle industry accepts the need for enforcement personnel to be able to distinguish whether a vehicle meets the proper requirements to provide local, for-hire transportation service, the industry believed that an exception needed to be made for prearranged local trips that involve crossing a state line.

TLPA, NLA & BCAC drafted legislation that, if adopted, would provide a very limited federal preemption of state/local licensing authority exclusively for prearranged, local passenger trips that cross a state line. At the same time, the bill provided a more precise definition of taxicab service, which was needed by the taxicab industry and other taxicab service providers such as the black cars and community cars in New York City.

Contentious Issues

State/Local Rights: Before this legislation passed, regulation of local providers of for-hire passenger services, even when the trip crosses a state line, had been left almost exclusively to state and local governments. Therefore, for Congress to take action upon this issue lead some to declare a violation of states' rights. However, since the resolution proposed was limited exclusively to interstate trips, Congress was on sound footing to enact this remedy from a legal and policy perspective.

Federal Motor Carrier Safety Regulations (FMCSR): Before this legislation passed, the federal government already exercised limited regulatory authority over local providers of for-hire passenger service when the trip involved interstate transportation. When a for-hire passenger trip crossed a state line and went beyond the commercial zone for the metropolitan area, that trip became subject to the jurisdiction of the Federal Motor Carrier Act. Different provisions of the Act came into effect based on the size of the vehicle and the type of the service being offered.

Taxicab Definition: Before this legislation passed, taxicab service was exempt from the insurance requirements of the FMCSR. However, the definition of taxicab service was imprecise, leading to confusion over what constitutes taxicab service for Motor Carrier Act purposes. Vehicles that are licensed as taxicabs at the state or local level have always asserted that they provide taxicab service. Black cars in New York City have also always asserted that they provide taxicab service. However, we know of no cases where a limousine service or an airport shuttle service declared that it was providing taxicab service for purposes of the FMCSR. Taxicab service received an exemption from the Motor Carrier Act, including the insurance requirements, because taxicabs are highly regulated (including insurance requirements and vehicle inspections) at the state and local level; taxicab insurance rates are extremely high when compared with other types of passenger carriers; and taxicabs are often owned by individual drivers who cannot meet higher federal insurance requirements.

Enforceability: For this legislation, by limiting the resolution to allowing out-of-state vehicles, which were readily spotted by their out-of-state license plates, to make a prearranged pick-up of a passenger who is leaving the state, regulatory confusion was minimized. Enforcement is somewhat more difficult for this limited segment of trips, but the outcome of facilitating interstate transportation makes that trade-off worthwhile.

Key Organizations Involved

TLPA: The Taxicab, Limousine & Paratransit Association (TLPA), originally formed in 1917, serves as the sole national organization that represents the owners and managers of all for-hire passenger transportation fleets (taxicab, limousine, sedan, airport shuttle, paratransit, and non-emergency medical). TLPA has over 1,000 member companies that operate over 100,000 passenger vehicles. TLPA member companies transport over 2 million passengers each day — more than 900 million passengers annually.

NLA: According to its web site, the National Limousine Association (NLA) was founded in 1985 as a voluntary non-profit organization responsible for and dedicated to representing and furthering the international, state, and local interests of all aspects of the limousine industry. The association is comprised of resourceful business people, regional and state associations, coachbuilders, and vendors. Its membership includes limousine owners and operators, manufacturers, and suppliers.

BCAC: The Black Car Assistance Corp. (BCAC) was formed ten years ago to address the needs of the Black Car industry of New York City. The organization addresses legislative and regulatory issues; the organization is a registered "Not for Profit" organization; the organization is governed by a Board of Directors elected by the membership and has regular meetings. The BCAC is currently comprised of approximately 40 member companies whose affiliated drivers represent approximately 12,000 vehicles. Regular membership in the BCAC is restricted to those companies who perform 90% or more of their business on other than a cash basis and are either franchised or cooperative companies.

New York City: According to their web site, the Taxi and Limousine Commission (TLC), was created in 1971, as the New York City agency responsible for licensing and regulating New York City's taxicabs, limousines, neighborhood car services, vans, and wheelchair accessible ambulettes. The TLC regulates over 45,000 vehicles and approximately 92,000 drivers, performs safety and emission inspections of taxicabs, seizes about 600 vehicles a month for operating as illegal liveries, and holds over 1,500 hearings a week for violations of City and TLC rules and regulations.

History of Issue

- 1998 The New Jersey limousine industry created a coalition of limousine operators (LICPICR) to address the problems the New Jersey limousine industry was experiencing with the Taxi and Limousine Commission of New York City regarding prearranged, interstate passenger trips.
- 1999**
- Jan. – Dec. 1999 LICPICR recruited numerous sponsors in the House for their proposed legislation.
- May 5, 1999 At the request of LICPICR, H.R. 1689 was introduced by Robert Andrews (D-NJ) to require that states issue one statewide license for all for-hire transportation services in vehicles designed to transport 15 or fewer passengers, including the driver, and which are not taxicabs. TLPA and BCAC opposed the bill. H.R. 1689 was assigned to the House Energy and Commerce Committee, which created jurisdictional issues with the Transportation & Infrastructure Committee.
- June 1, 1999 TLPA Executive Committee held conference call to review legal analysis of HR 1689. The committee supported the Interstate portion and opposed the Intrastate portion of the bill (which would have deregulated local transportation services).
- June & July 1999 TLPA, NLA and BCAC try unsuccessfully to reach a compromise.
- August 4, 1999 TLPA goes public with its opposition to HR 1689 and proposes changes.
- August 31 &
Sept. 1, 1999 A meeting was held with TLPA, BCAC, LICPICR and NLA to review how H.R. 1689 could be amended to achieve industry wide support. These industry groups agreed to a framework for drafting a new bill.
- 1) States may not interfere with interstate passenger service,
 - 2) That the term "taxicab service" be defined,
 - 3) That the bill not address the issue of intrastate service, and
 - 4) That the bill be redrafted into more precise legislative language.
- December 1999 A compromise bill was not agreed to & Congress recessed before taking action.

2000

- January 2000 LICPICR merged with the NLA and became NLA's lobbying arm.
- Jan. – Dec. 2000 NLA recruited sponsors in the House and Senate for their proposed legislation.
- March 29, 2000 Senator Robert Torricelli (D-NJ) introduced S. 2325 as a companion to H.R. 1689.
- April 10, 2000 TLPA representatives met with staff of the House Energy and Commerce Committee to review H.R. 1689. TLPA reviewed its opposition to H.R. 1689. NLA held separate meeting with the same staff later that day and was told to work out an industry consensus on this legislation.
- August 21, 2000 TLPA, NLA, and BCAC agreed to a compromise bill that fit within the framework that was established one year earlier.
- September 14, 2000 The House Energy and Commerce Committee passed its own modified version of H.R. 1689. While flawed, the bill was an improvement over earlier versions.
- Sept. & Oct. 2000 TLPA, NLA, and BCAC held weekly meetings with the House Transportation and Infrastructure Committee staff to work out an agreement on the bill, including subjecting the bill to the Transportation and Infrastructure Committee's jurisdiction. At one meeting, the New York City TLC was present. TLPA, NLA, and BCAC kept redrafting the bill to address issues raised by Committee staff, TLC and AAAE.
- November 2000 Congress adjourned before action was completed on this matter.

2001

- February 13, 2001 At the request of NLA, Congressman Robert Andrews introduced H.R. 565 (it was the same as the old H.R. 1689), which was also referred to the House Energy and Commerce Committee.
- June 15, 2001 TLPA drafted legislation to replace H.R. 565. The revised draft was transmitted to NLA and BCAC for their consideration.
- June 20, 2001 BCAC approved the draft legislation.
- July 9, 2001 NLA approved the draft legislation.
- October 5, 2001 TLPA floats compromise language to TLC to incorporate criminal background checks into the draft legislation.
- November 5, 2001 The New York City Taxi and Limousine Commission and the TLPA, BCAC and NLA all agreed to an amendment to H.R. 2546 that allows for New York City, and other affected cities, to require proof that a state criminal background investigation has been conducted before an out of state taxicab, airport shuttle, executive sedan, or limousine driver is allowed to make a prearranged interstate passenger pick up. With the adoption of this amendment, New York City officially dropped its opposition to the bill and became officially neutral on the bill.
- November 7, 2001 H.R. 2546 passes the Transportation and Infrastructure Committee's markup with the agreed to amendment.

- November 13, 2001 H.R. 2546 passes the U.S. House of Representatives by unanimous consent.
- November 14, 2001 H.R. 2546 is received by the U.S. Senate, read twice, and referred to the Committee on Commerce, Science, and Transportation.
- December 2001 Congress recesses for the year before the Senate acts on our bill.

2002

- February 2002 The Transportation Services Authority (TSA) in Nevada contacted TLPA to discuss an amendment to H.R. 2546. TLPA drafted an amendment to address the TSA's concerns with intermediate stops. TSA adopted the amendment, and the NLA and BCAC also endorsed the amendment.
- March 4, 2002 TLPA contacted the TLC to notify them of the amendments being made to the bill to address the TSA's concerns. The TLC agreed with the proposed changes.
- April 17, 2002 Every member of the full Senate Commerce, Science and Transportation Committee received letters and telephone calls from constituents and TLPA & NLA supporting passage of H.R. 2546.
- April 18, 2002 H.R. 2546 is marked up and passed by the Senate Commerce, Science and Transportation Committee. The committee made one new amendment to the bill to allow public licensing entities to require proof that a drug test has been conducted before an out of state taxicab, airport shuttle, executive sedan, or limousine driver is allowed to make a prearranged interstate passenger pick up, provided that commercial drivers licensed by the same licensing entity are also required to submit to a drug test.
- April – June 2002 TLPA, NLA & BCAC worked with Senate staff to have the Senate Report language on the bill issued.
- August 1, 2002 The Senate's Committee Report on the bill was issued.
- August – Oct. 2002 Hold placed on H.R. 2546 and on 35 other bills. NLA led the effort to get the hold released.
- October 16, 2002 Hold was lifted from H.R. 2546, but not from the other 35 bills.
- October 17, 2002 The full Senate passed H.R. 2546 by unanimous consent.
- November 12, 2002 The full House passed H.R. 2546 by unanimous consent.
- November 26, 2002 President Bush signed H.R. 2546 into law.

2007

- May 2007 TLPA, NLA & BCAC enter into a dialogue and agreed on how to amend the RIDE Act to address ongoing problems the industry is having with airports.
- June – Sept. 2007 Lobbying is underway to get our legislation introduced.

The effort continues...