

**LIMOUSINE FORUM**  
**(Discussion on the Application of the Passenger Transportation Act)**  
**December 13, 2005 – 7:00pm to 10:00 pm**

At a request from members of the limousine industry an educational forum was held to discuss the concerns of transportation operators on December 13, 2005.

The educational forum was co-chaired by Tom Greene, Registrar of Passenger Transportation (Registrar) and Jim Price, President of the B.C. Livery Association. The Passenger Transportation Board was represented by 3 Board members including Dennis Day, Chair who answered questions relevant to the Board. The meeting was open to all limousine companies. The Executive Director of the Vancouver Taxi Association and President of the BC Taxi Association also attended.

Prior to this meeting, industry members were encouraged to provide specific questions regarding the new Passenger Transportation Act (Act) to the Registrar, Passenger Transportation and/or the Passenger Transportation Board. The responses to these questions are attached.



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The following are responses emanating from questions posed at the forum. Some of the answers are provided by the Passenger Transportation Branch (Branch), others by the Passenger Transportation Board (Board). The answers contain general policy statements.

**1. How do licensees prepare for an audit? How are audits conducted? What are the expectations of the Branch?**

PT Audit information is now posted on the Registrar's website to assist licensees on preparing for audits. Please visit the Registrar's Website address at: <http://www.th.gov.bc.ca/rpt>. This document can be found under the "Compliance and Enforcement" link at the bottom of the left hand column.

**2. Will other sessions be held? If so, will some of these sessions be held outside the Lower Mainland?**

The Registrar and Board share the view that these types of sessions should be held twice per year (e.g. April and October). For 2006, sessions are being considered for the Okanagan or Victoria, plus one in the Lower Mainland.

**3. Can there be a “Fast Track” Temporary Operating Permit (TOP) for licensee’s requesting temporary additional vehicles on short notice?**

The process for TOP is set out in Section 38 of the Passenger Transportation Act. The Board recognizes industry’s concerns and is willing to do whatever can be done within the parameters of this section and the Board’s mandate to expedite the approval process. The Board will explore its options in this area. Any new options/policies will be highlighted in an “industry advisory” and posted on the Board website.

**4. Stretch SUVs – over 11 passengers, excluding drivers: Instead of using a seating capacity as a bench mark, could the vehicle configuration, design, type of vehicle and its intent be considered when determining if should be classified as a General Passenger Vehicle or a Passenger Directed Vehicle?**

The definition of passenger directed vehicle is as defined in the Act. Changing the definition would require legislative amendments. The maximum allowable passengers that vehicles can accommodate can be increased or decreased by regulation.

**5. Could the Licensee’s have the ability to quote rates as they see fit; have flat rates; standardized rates for all limousines; set minimum rates for all limousines?**

The Act requires Board approval of rates and rules used by operators of passenger directed vehicles. These rates must be quantifiable, and clear, i.e. the customer and the Board need to know what the rates are and when and how they will be applied. The Board also has an ability to set rates for the purposes of establishing just and uniform charges... The Board is reviewing the rates and rules of limousine operators in the Lower Mainland and Whistler. The Board will be consulting with the limousine industry before it undertakes any major policy changes regarding rates and rules.

## **6. Board and Branch staff members have various interpretations of policies and rules.**

The Board's "Rules of Practice and Procedure" and its "Policy Guidelines" are posted on its website at: <http://www.ptboard.bc.ca>. These provide a good overview of Board processes and any timelines that must be followed. The Board is also revising its information requirements in the application process. The Board's updated application materials will be available by April 2006. The goal is to provide clearer and more detailed information to applicants.

The Registrar's "Rules of Practice and Procedure" are posted on its website at <http://www.th.gov.bc.ca/rpt>.

The Board and Branch also requests that any concerns regarding "mixed" interpretation be reported to the Branch and/or Board.

## **7. What are the Board's application time lines?**

The revised application package will include estimates for processing times.

## **8. Will licensees lose their passenger transportation plates (VIC's and Identifiers) for non utilization?**

Section 31(4) of the Act states:

...if a licence contains terms and conditions respecting fleet size and it appears to the Board that the licensee has consistently failed to operate the full number of vehicles authorized by those terms and conditions respecting fleet size, the Board may direct the registrar to amend the licensee's licence to reduce the fleet size to the number of motor vehicles the Board considers appropriate.

The Board intends to develop policy and provide notice to industry on what constitutes "consistently failed to operate" before invoking this section in a systematic manner. However, should the Board be confronted with exceptional circumstances that necessitate the use of the section before the policy is finalized, a licensee would be notified of the Board's proposed course of action and be given an opportunity to respond.

The Registrar also intends to develop policy and provide notice to industry for those carriers who operate seasonally.

## 9. Can limousine operators apply for a fuel surcharge?

The Board has invited limousine industry representatives to propose a fuel charge that would be simple, fair, consistent and easy to administer. The Board has not yet received a recommendation from industry as to what fuel surcharge system would work for industry.

## 10. Participants brought forward three scenario type questions on “care and control”. For ease of reference, we have identified these scenarios as follows:

Please note the following responses contain general policy statements. Responses to specific situations would be dependent on factual information being provided at the time of investigation, and as such responses below could potentially vary when put in the context of specific situations.

### Scenario 1) Contracting out services from one licensee to another licensee.

Licensed carrier "A" hires licensed carrier "B" to transport passengers  
Carrier B performs the transportation services  
Carrier B invoices Carrier A for performing the transportation services  
Carrier A invoices the passengers for the transportation services

PTA defines a "commercial passenger vehicle" as a motor vehicle operated on a highway by or on behalf of a person who charges or collects compensation for the transportation of passengers in that motor vehicle.

Under the above scenario who has care and control of the operation of the vehicle: Carrier A or Carrier B? Who is the "true" licensee?

**Registrar's Response:** As long as Carrier A and Carrier B are both licensees, they are responsible for the care and control of their own vehicles in the ways described in Part 2, Sections 6 & 7 of the Passenger Transportation Regulation (PT Regulation).

Although Carrier A is receiving the payment, Carrier B is responsible for the operators and vehicles being utilized under its licence, and the licensee must be aware of the extent of its responsibility under Sections 6 and 7 of the PT Regulation.

In this scenario, Carriers A & B must as well have the operating authority to operate in the geographical area of requested services. As a result, if Carrier A holds a Passenger Directed Vehicle authority it must charge the approved Board filed rates to the passengers.

For ease of referencing, we have attached excerpts of Part 2, Sections 6 & 7 of the PT Regulation:

## Part 2 – Operation of Commercial Passenger Vehicles

Licensee must retain care and control of commercial passenger vehicles

- 6 (1) A licensee must retain the care and control of every commercial passenger vehicle that is operated under the licence and must do all things necessary to
- (a) ensure that the Act and this regulation are complied with, including, without limitation, to ensure that each commercial passenger vehicle that is operated under a licence is operated in compliance with the terms and conditions of the licence and in compliance with any rates approved or set by the Board under section 7 (1) (f) of the Act and any rules made in relation to those rates under section 7 (1) (g) of the Act, and
  - (b) secure observance of the Act and of this regulation by
    - (i) every driver of each commercial passenger vehicle that is operated under the licence,
    - (ii) every operator of each commercial passenger vehicle that is operated under the licence, and
    - (iii) every other officer, agent and employee of the licensee.
- (2) Nothing in subsection (1) requires the licensee to be the driver of a commercial passenger vehicle operated under the licence.

### Drivers

- 7 A licensee must ensure that the driver of a commercial passenger vehicle operated under the licence
- (a) is licensed to drive a motor vehicle of that type,
  - (b) is not, at any time while operating the commercial passenger vehicle, under the influence of any intoxicating liquor or drugs, and
  - (c) does not, at any time while operating the commercial passenger vehicle, smoke any substance.

**Scenario 2): Brokering/Advertising of passenger transportation services:**

**Industry seeks clarification on Section 23 (4) as to whether an unlicensed person, e.g. broker can perform "bookings" for a licensed carrier?**

**Registrar's Response:** Firstly, we are assuming that the transportation service itself is provided by a licensee ("under a license" by one or more of the licensee's operators). It is not the intent of Section 23 (4) (a) of the Passenger Transportation Act to permit only the actual licensee him or herself to offer this service, but rather also employees or agents of the licensee.

The nature of the working arrangement between the "brokers" and the licensees must be some form of agreement, express or implied, between the two parties such that the "broker" is offering the service with the licensee's consent, e.g. selling tickets provided by the licensee.

Any transportation services brokered and/ or advertised must be performed in accordance to the terms and conditions of the licence.

For ease of referencing, we have attached excerpts of Sections 23 of the Passenger Transportation Act (PT Act):

PT Act, Section 23 (4) states:

(4) A person must not provide, or hold himself or herself out as able to provide, a service that involves the operation of motor vehicles as a type of commercial passenger vehicles unless

(a) The person is a licensee whose licence includes the authorization necessary for that type of operation, or

(b) The licence under which each of the motor vehicles through which that service is or may be provided includes that authorization.

### **Scenario 3) Leasing of Passenger Transportation Plates**

**If licensees charge a "monthly/weekly/daily dispatch fee" to their drivers, and these drivers retain the revenue and pay for their own expenses would this be considered a "lease" of a PT plate?**

**Registrar's Response:** As long as the licensee is responsible for the care and control of their vehicles in the ways described in Part 2, Sections 6 & 7 of the PT Regulation, the licensee has the ability to structure and manage their operations as they deem fit & proper. However, an investigation will be conducted on the licensee if an Inspector has reasons to believe the licensee is in violation of the care & control of its responsibilities as defined under Part 2, Sections 6 & 7 of the PT Regulation.

A written agreement in these or similar scenarios is strongly recommended as a means of setting out the licensee's expectations of those operating under their licence. The absence of such information will make it harder for the licensee to demonstrate that they are meeting their statutory care and control obligations.