



CBJ Law Department
MEMORANDUM

To: Mayor and Assembly
From: Barbara R. Craver, Assistant City Attorney *BRC*
Subject: Ordinance 2000-09, Amending the Commercial Passenger Vehicle Code
Date: April 13, 2000

This ordinance makes changes to the commercial passenger vehicle code requested by the police department, the hotel and tour industry, and makes a correction to an inconsistent code section. These changes to the code will be followed up with any changes needed to the regulations. It is hoped that these changes will be in effect during the 2000 summer season, the busiest time of year for the regulated industry. The changes are discussed in the order appearing in the ordinance.

Fine schedule amended

Three new offenses are created at the request of the police department. This requires that CBJ 03.30.062 be modified to reflect the applicable fine and bail schedule for each new offense.

Courtesy Vehicles

The definition of courtesy vehicle is being modified again. This amendment has been drafted based upon discussions with representatives of the hotel, tour and taxi industry. Commercial lodging facilities, tour or experience providers, and automobile repair businesses may provide free transportation to their patrons in clearly marked courtesy vehicles. The industry has volunteered to limit the use of courtesy vehicle services so as not to unfairly compete with taxi service and to display signs or markings to indicate that a vehicle is being used as a courtesy vehicle. That informal agreement will not be enforced by CBJ, but if followed, satisfies the concerns of the taxi industry.

Appointment of CPV administrator by chief of police

The appointment of the CPV administrator should be by the chief of police, an inconsistent reference to this appointment being by the manager is corrected.

New Offense - Radar Detector Prohibited

The first new offense created prohibits any commercial passenger vehicle from having a "radar detector" in the vehicle. Any device used to detect or interfere with enforcement of motor vehicle speed limits is prohibited for public safety reasons in commercial passenger vehicles. Many other states have outlawed these devices in all vehicles. This offense is designated to be an infraction and the fine is \$300 for each conviction.

New Offense - Excess Number of Passengers Prohibited

The second offense created prohibits having an excess number of passengers in a commercial passenger vehicle. It has been observed that commercial passenger vehicles are sometimes overloaded with passengers, which is unsafe for other vehicles due to visibility and handling concerns as well as dangerous to the people in the vehicle who cannot be properly seated and restrained. There is no traffic

law requirement that a driver transport only as many passengers as the vehicle can safely transport.¹ Vehicle registration applicants will be required to designate the maximum number of passengers for each vehicle, which will be inspected and verified by the administrator as part of the vehicle approval process. This offense is designated to be an infraction and the fine is \$300 for each conviction. Each person in excess of the maximum is considered to be a separate offense.

New Offense - Radio Scanners in Taxis Prohibited

The third offense involves radio scanners which can be tuned in to monitor multiple radio frequencies. The police department's concern is that taxis may monitor law enforcement frequencies for the purpose of interfering with law enforcement efforts. The taxi industry is concerned that taxis will monitor the frequency of their competitors and "jump their calls" by responding to a customer request before the taxi dispatched by the company called by the customer arrives.

The original version of this offense, found in Section 8, page 7, lines 12-17 of the introduced version of the ordinance, prohibited taxis from having a radio scanner tuned in to an unauthorized frequency. The offense as written would probably be unenforceable. The police department suggests that the offense be modified as set forth below. Changes are indicated by using ~~strikeout~~ to reflect language being removed and *italics* for language being added.

20.40.340 RADIO SCANNERS IN TAXIS ~~RESTRICTED~~ *PROHIBITED*. (a)
It shall be unlawful for the driver of a taxicab or the holder of a certificate endorsed for taxi service *to provide services in a vehicle equipped with a device capable of monitoring* ~~to monitor the radio communications of another holder of the Juneau Police Department~~ on any frequency other than that used by the holder for dispatch.

(b) *This section shall not apply to a taxicab vehicle not in service and lawfully marked as such.* ~~Violation of this section is an infraction.~~

(c) *Violation of this section is an infraction.*

If this change was made, changes would be required to Sections 2 & 3 of Ordinance 2000-09 where the title of this offense is mentioned to change it to "Radio Scanners in Taxis Prohibited."

Shuttle Schedules

The purpose and conditions of shuttle endorsements would be modified to require shuttles to operate on schedules. This would necessarily require shuttles to submit a schedule for every approved route, including the days such a route would be operated, the times and locations of each stop. Such a condition also necessitates the creation of an offense of failing to operate on a schedule. This would occur when a

¹ The State of Alaska statutory scheme fails to address the safety concerns of the police department. The police department wants to place the burden of failing to limit the number of passengers on the driver, the person who has the most incentive to allow excess passengers to the detriment of safety. The state statutes are concerned with safety belts but a driver is not responsible for adult passengers who fail to use them. Citing passengers is not practical where most of the CPV passengers are from out of town.

All persons 16 and older are required to wear a passenger restraint when operating or being driven in a motor vehicle. AS 28.05.095(a). The driver is charged if a person under 16 is not properly restrained, but otherwise the passenger is the one charged. The state law also does not allow apparent violation of this offense as probable cause to stop a vehicle.

vehicle picks up or drops off a passenger at a time or place not scheduled, as well as when a vehicle fails to show up at a stop at the time designated on their schedule. This offense is designated to be an infraction and the fine is \$300 for each conviction.

BRC/szl

I:\ORD\BACKUP\2000-09\2000-04-13 memo BRC to Assembly with ordinance.wpd