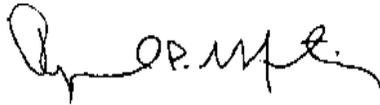


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**TRANSPORTATION
MOTOR VEHICLE COMMISSION
REGULATORY AFFAIRS (COMMERCIAL PASSENGER TRANSPORTATION)**

Zone of Rate Freedom

Proposed Amendment: N.J.A.C. 16:53D-1.1



Authorized By:

Raymond P. Martinez, Chair,
Motor Vehicle Commission

Authority: N.J.S.A. 27:1A-5, 27:1A-6, 48:2-21, and 48:4-2.20 through 2.25

Calendar Reference: See Summary below for explanation of exception to
calendar requirement.

Proposal Number:

Submit written comments by January 6, 2012 to:

Steven E. Robertson, Director
Attention: Regulatory and Legislative Affairs
New Jersey Motor Vehicle Commission
225 East State Street
PO Box 162
Trenton, New Jersey 08666-0162

The agency proposal follows:

The public comment period for this proposal will be 60 days, since the proposal is not listed in the agency calendar. This notice of proposal is exempted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

The Motor Vehicle Commission (hereinafter “the Commission”) proposes to amend the provisions of N.J.A.C. 16:53D, Zone of Rate Freedom.

The Commission is statutorily obligated to establish for each calendar year a Zone of Rate Freedom (ZORF) for regular route private autobus carriers providing service within the State. See N.J.S.A. 48:4-2.21, as amended by P.L. 2003, c. 13, §98. See also N.J.S.A. 48:4-2.20 through 2.25. The ZORF is the maximum permitted percentage increase adjustment and the maximum permitted percentage decrease adjustment that a private autobus carrier may make to its rate, fare or charge for intrastate regular route service without first having to petition the Commission for approval. The maximum ZORF percentage amounts for increases and decreases take into account the varying fares currently charged by intrastate regular route private autobus operators. In accordance with N.J.S.A. 48:4-2.21, relevant factors that must be considered by the Commission in setting the ZORF percentages include, but are not limited to, the availability of alternative means of transportation; fluctuations in operational bus costs; and rates, fares, and charges existing in the bus industry and in other related transportation services, as well as the interests of the users of bus service in this State.

As long as the autobus carrier's fare adjustments remain within the designated ZORF percentage range, the carrier need only give notice to the Commission and the bus-riding public of the rate, fare, or charge adjustment. However, should a regular route private autobus carrier need a percentage fare adjustment greater than that allowed by the ZORF, the carrier will be required to comply with the petitioning procedures set forth in N.J.S.A. 48:2-21 and 48:2-21.1.

The ZORF percentage limitations set forth in N.J.A.C. 16:53D-1.1 apply only to regular route private autobus carriers. N.J.S.A. 48:4-2.25 authorizes the Commission to exempt rates, fares and charges for regular route in the nature of special (casino bus operations), charter, and special autobus operations from this regulation, so long as carriers engaged in such operations file annual tariffs with the Commission.

N.J.A.C. 16:53D-1.1 consists of general provisions and standards that regular route private autobus carriers must follow, and specifies the maximum ZORF percentages for rate, fare, or charge increases and decreases for the calendar year and exempts student, senior, transfer, interline and other unique rates, fares or charges for a regular route from the requirements of this chapter provided they remain less than the current or adjusted regular route fare applicable to the route.

Social Impact

The proposed amendments have a positive social impact in that they enable private autobus carriers to increase or decrease regular route fares marginally within established limits without having to undertake costly and time-consuming formal administrative proceedings. Since the ZORF fare adjustment mechanism allows autobus carriers to effectuate minor changes to their regular route fares without the necessity of making a complex, formal tariff filing with the Commission, the ZORF fare adjustment procedures result in cost and time savings for both the regulated industry and the Commission. The ZORF-controlled fare increases also encourage autobus carriers to invest in new buses and in the servicing and maintenance of their existing fleet of buses, while at the same time protecting the public from unreasonable fare increases. The ZORF percentage limit for fare decreases discourages predatory fare-reducing tactics designed to reduce or eliminate competition. In sum, the ZORF fare adjustment mechanism has a positive impact upon the autobus industry and the Commission while also benefiting the public interest.

Economic Impact

The proposed amendments offer privately owned autobus companies a measure of flexibility in effectuating marginal adjustments to their regular route fares. Such companies can avoid the rate increase petition process set forth in N.J.S.A. 48:2-21 and 48:2-21.1, which is costly and time consuming, provided the fare adjustment that is sought remains within the percentage limits set forth in

the ZORF rules. Although the ZORF provides a mechanism for regular route private autobus carriers to increase rates, fares, or charges, any adverse impact of such fare increases upon the public will be mitigated by the percentage limitations set forth in N.J.A.C. 16:53D-1.1. The ZORF percentage limitations are intended to ensure that only reasonable rate, fare, or charge increases will occur. The exemption of charter, casino, and special bus operations from the ZORF rules will have no adverse economic impact on the public because the competitive nature of these markets due in large part to their elastic demand, protects consumers from unreasonable rate, fare, or charge adjustments.

Federal Standards Statement

A Federal standards analysis is not required because the rules that are the subject of this proposed readoption are dictated by State statutes and are not subject to Federal requirements or standards.

Jobs Impact

Although the ZORF rules could theoretically have an impact upon the jobs of private autobus carrier employees and the bus-riding public, no specific number of jobs generated or lost as a result of these rules can be calculated. With limits on fare increases, private autobus carriers could conceivably adjust their employee levels to address financial constraints. Similarly, the ability of commuters to travel to their job sites could be affected by any changes made by such autobus carriers in bus routes or service to certain areas caused by shifts in

employee staffing levels. However, it should be noted that rate change protection for both autobus carriers and commuters exists in other statutes and regulations that govern rate changes outside the ZORF limits.

Agriculture Industry Impact

The proposed amendments will have no impact on the agriculture industry.

Regulatory Flexibility Analysis

The proposed amendments affect private autobus carriers that are small businesses as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq.

Regular route private autobus carriers that seek ZORF fare adjustments are required to comply with N.J.A.C. 16:53D-1.2. That chapter requires that such carriers notify the Commission of a ZORF fare adjustment by filing a complete schedule of all current fares and all fares that will be adjusted. The carrier must also provide public notice of the ZORF fare adjustment in accordance with N.J.A.C. 16:53D-1.2 herein and must file with the Commission an affidavit confirming its compliance with said public notice requirement.

These regulatory mandates constitute reporting, recordkeeping, and compliance requirements as defined in the Regulatory Flexibility Act. However, they affect only those private autobus carriers that choose to avail themselves of the ZORF fare adjustment procedure. The Commission believes that these

reporting, recordkeeping, and compliance requirements are minimal and impose no burden on regular route private autobus carriers. Nor are professional services, such as those provided by engineers, attorneys or accountants, required for compliance with the reporting and recordkeeping provisions of this rule. In fact, the ZORF fare adjustment mechanism is substantially less burdensome than the rate increase petition process to which autobus carriers are subject under N.J.S.A. 48:2-21 and 48:2-21.1.

Smart Growth Impact

It is not anticipated that the proposed amendments will have any impact on the achievement of smart growth and the implementation of the State Development and Redevelopment Plan within the meaning of Executive Order No. 4 (2002).

Housing Affordability Impact

It is not anticipated that the proposed amendments will have any impact on housing costs because the scope of the regulation, inasmuch as it applies only to procedures for amending regular route autobus fares, is minimal, and there is an extreme unlikelihood that it would evoke a change in the average costs associated with housing.

Smart Growth Development Impact

It is anticipated that the proposed readoption will have only an insignificant impact, if any, on any new construction. Moreover, because the rule applies only to the procedures for adjustment of autobus fares, it does not apply to housing units at all. Thus, the scope of the regulation is minimal and there is an extreme unlikelihood that the readoption will evoke a change in the housing production within Planning Areas 1 or 2, or within designated centers under the State Development and Redevelopment Plan.

Full text of the proposed amendments follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

16:53D-1.1 General provisions

(a) Any regular route autobus carrier operating within the State, which carrier seeks to revise its rates, fares or charges in effect as of the time of the promulgation of this rule, shall not be required to conform with N.J.A.C. 16:51-3.12, Tariff filings that do not propose increases in charges to customers, or N.J.A.C. 16:51-3.13, Tariff petitions that propose increases in charges to customers, provided the increase or decrease in the rate, fare or charge, or the aggregate of increases and decreases in any single rate, fare or charge is not more than the maximum percentage increase (10 percent for [2009] **2012**) or decrease (10 percent for [2009] **2012**), upgraded to the nearest \$.05.

1. For illustrative purposes, the following chart sets forth the [2009] **2012** percentage maximum for decreases to particular rates, fares or charges and the resultant amount as upgraded to the nearest \$.05:

<u>Present Fare</u>	<u>Percent of</u>	<u>Decrease Upgraded</u>
	<u>Decrease</u>	<u>To Nearest \$.05</u>
\$.0 or less	10%	\$.05
\$.55 to \$ 1.00	10%	\$.10
\$ 1.05 upward	10%	\$.15+

3. Except as may be provided in the Certificate of Public Convenience and Necessity, changes to student, senior, transfer, interline and other unique rates, fares or charges for a regular route shall not be subject to the requirements of this chapter, provided they remain less than the current or adjusted regular route fare applicable to the route.

§ 16:53D-1.2 Requirements

(a) No change.

16:53D-1.3 Exemptions

No change.