



Metropolitan Nashville and Davidson County, TN

Legislation Text

File #: BL2023-1869, **Version:** 1

An ordinance to amend Title 6, Chapter 77, Article I of the Metropolitan Code of Laws, regarding renewal of Entertainment Transportation certificates of public necessity and convenience and Entertainment Transportation vehicle permits.

WHEREAS, the current renewal language of Chapter 6.77 does not provide a process for reducing the number of certificates of public necessity and convenience (CPCN); and,

WHEREAS, this ordinance should put ET CPCN holders and permittees on notice that they should not necessarily expect a routine annual renewal of CPCN's and permits granted in April, 2023, at the April, 2024, meeting of the Transportation Licensing Commission, due to the need to reduce numbers of ET vehicles to increase the pace of traffic in downtown Nashville; and,

WHEREAS, at its meeting on April 27, 2023, the Metropolitan Transportation Licensing Commission (MTLC) met and recommended the approval of this ordinance to Council.

NOW THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

Section 1. That Section 6.77.030 of the Metropolitan Code be hereby amended by deleting the current section in its entirety and replacing it with the following:

6.77.030 - Findings-Issuance of certificate, renewal or additional permits.

A. The MTLC must make a prerequisite finding as to what number of entertainment transportation vehicle service providers and vehicles are required by the public convenience and necessity, in the metropolitan government area, before it may issue any new certificates of public convenience and necessity, renew any previously issued expiring certificates, or add any additional permitted vehicles to an existing certificate-holder's permitted fleet. Further, the MTLC must find that an applicant is fit, willing, and able to provide such service and to conform to the provisions of this chapter and the rules promulgated by the MTLC, before the MTLC may issue a certificate of public convenience and necessity to a particular applicant. The certificate shall state the name and address of the applicant, the number of vehicles authorized upon such certificate and the date of issuance.

B. In making the above findings, the MTLC shall, at a minimum, take into consideration the number of entertainment transportation vehicles already in operation, whether existing service is adequate to meet the public need, or so great as to be exceeding the public need and unnecessarily adding to traffic congestion; the character, experience, financial condition and responsibility of the applicant, and such criteria as may be adopted by the MTLC in its rules.

Section 2. That Section 6.77.060 of the Metropolitan Code of Laws be hereby amended by deleting the current section in its entirety and replacing it with the following:

6.77.060 - Annual renewal.

A. All certificates issued under the provisions of this chapter shall expire on April 30 of the year following the date on which the certificate was issued. All certificates may be renewed by the MTLC director for each successive year between April 1 and 30 of each year, if the applicant meets all applicable standards for

renewal as established by the MTLC, and if it has not been determined, pursuant to section 6.77.030, above, that the number of entertainment transportation vehicles already in operation is so great as to be exceeding the public need and adding to traffic congestion. A renewal fee for each approved certificate and other licensing fees shall be charged at the annual renewal of the certificate.

B. All applicants for renewal must be current with all assessments and taxes due to the metropolitan government.

C. If the MTLC has made a finding that the number of entertainment transportation vehicles already in operation immediately prior to the annual meeting, is so great as to be exceeding the public need and adding to traffic congestion, the MTLC shall determine what lower number would meet the public need. All renewing and new applicants shall be placed on notice that at the annual meeting they must show cause why their application for a new certificate, a renewal, or for the addition of vehicles to their fleet should be among the new number determined to be adequate to meet, and not exceed, the public need. It, accordingly, may not be possible to renew every certificate and/or vehicle that was permitted in the preceding year. In the event the number of permits is reduced and any existing permits are not renewed at the annual meeting, such non-renewed permitted vehicles may continue operating for 100 days from the date of the non-renewal. In determining which applications will be granted, the MTLC may take into consideration the following non-exclusive factors, among any other criteria they see fit to adopt in their regulations. Whether the applicant for a new or renewed certificate has:

1. Violated any of the provisions of this chapter or failed to comply with any rule or regulation established by the MTLC;
2. Violated any provision of this code or other ordinances of the metropolitan government or laws of the United States or the State of Tennessee, the violation of which reflects unfavorably on the fitness of the holder to offer transportation services, including but not limited to, violations for excessive noise or alcoholic beverage open containers;
3. Failed to pay assessments or taxes due to the metropolitan government; or
4. Made a misrepresentation or false statement when obtaining or renewing a certificate or additional permits, or transferring a certificate.

D. If a licensed entertainment transportation vehicle company or individual fails to submit an application to renew by the deadline set by the MTLC for same, the license shall expire.

Section 3. That section 6.77.090 of the Metropolitan Code of Laws be hereby amended by deleting the current section in its entirety and replacing it with the following:

6.77.090 - Suspension and revocation.

A. A certificate issued under the provisions of this chapter may be revoked, suspended, placed on probation, or otherwise restricted, by the MTLC if the holder thereof has:

1. Violated any of the provisions of this chapter or failed to comply with any rule or regulation established by the MTLC;
2. Violated any provision of this code or other ordinances of the metropolitan government or laws of the United States or the State of Tennessee, the violation of which reflects unfavorably on the fitness of the holder to offer transportation services, including but not limited to, violations for excessive noise or alcoholic beverage open containers;
3. Failed to pay assessments or taxes due to the metropolitan government; or

4. Made a misrepresentation or false statement when obtaining or renewing a certificate or additional permits, or transferring a certificate.

B. Prior to any action to revoke, suspend, place on probation, or otherwise restrict a certificate, the holder shall be given notice to the address listed on their certificate of the proposed action to be taken and shall have an opportunity to be heard by the MTLC.

C. If the holder commits an act in violation of the criminal laws of the United States of America or state of Tennessee Code and the MTLC director determines that holder poses a threat to the public safety, the MTLC director may enact an emergency suspension of the holder's certificate to remain in effect until the holder has the opportunity to be heard by the MTLC at the next available meeting, but in no circumstance later than sixty days from the date of the emergency suspension.

Section 4. This Ordinance shall take effect from and after its passage, the welfare of the Metropolitan Government of Nashville and Davidson County requiring it.

Analysis

This ordinance amends Chapter 6.77 of the Metropolitan Code of Laws ("MCL") regarding the renewal of permits for entertainment transportation vehicles.

This ordinance would amend MCL Section 6.77.030 to require that, prior to issuing any new certificates of public convenience and necessity, renewing any previously issued certificates, or adding any additional permitted vehicles to an existing certificate holder's permitted fleet, the Metropolitan Transportation Licensing Commission ("MTLC") must determine what number of entertainment transportation vehicle service providers and vehicles are required by the public convenience and necessity, in the metropolitan government area.

The ordinance would also amend MCL Section 6.77.060 regarding the annual renewal of certificates to clarify that, in addition to the applicant meeting all applicable standards for renewal, a certificate may not be renewed if the MTLC has determined that the number of entertainment transportation vehicles exceeds the public need pursuant to MCL Section 6.77.030. If the MTLC determines that the number of entertainment transportation vehicles already in operation exceeds the public need and is adding to traffic congestion, the MTLC would be required to determine the lower number of vehicles that would meet the public need. Notice would be provided to all renewing and new applicants that it may not be possible to renew all certificates and or vehicle permits from the preceding year. If any existing permits are not renewed due to the reduction of the number of permits, non-renewed permitted vehicles may continue operating for 100 days from the date of non-renewal.

MCL Section 6.77.090 would be amended to remove language about not renewing a certificate.