

(H. B. 2212)

(No. 125-2010)

(Approved August 11, 2010)

AN ACT

To amend the Title and Sections 1, 2, 4, 5, and 6 of Act No. 148 of August 3, 2008, as amended, in order to exclude Non-tourist Taxis from the application of said Act; reestablish the jurisdiction, competence, and rulemaking authority of the Public Service Commission over Non-tourist Taxis; and for other purposes.

STATEMENT OF MOTIVES

Act No. 148 was approved on August 3, 2008, in order to transfer the authority to plan and regulate mass transportation provided by public vehicles and non-tourist taxis from the Public Service Commission (hereinafter, the CSP, Spanish acronym) to the Department of Transportation and Public Works (hereinafter, the DTOP, Spanish acronym), based on the belief that mass transportation services would become more efficient, which, in turn, would encourage citizens to increase the use of mass transportation services.

In Puerto Rico, different types of mass transportation are offered to serve the People. These services are under the jurisdiction of the Department of Transportation and Public Works which, after the approval of Act No. 148, *supra*, include taxis and public vehicles. The purpose of taxis and public vehicles that serve the general public justifies such inclusion, for the CSP is the government agency called to oversee the quality of services being offered to our citizens and the safety of citizens when using such services.

During the evaluation process of House Bill 4123, which later became Act No. 148, the remarks of the Public Service Commission (CSP), the Department of Transportation and Public Works (DTOP), and the Puerto Rico Public Carrier Association were requested and evaluated. However, it was argued that organizations representing non-tourist taxis were not consulted. Currently, non-tourist taxis are demanding to remain under the jurisdiction of the Public Service Commission, since this entity has the structure and the capability to offer them services without having to incur any additional expenses as proposed under Act No. 148, *supra*. Non-tourist taxis provide personalized services based on the client's need, for which reason, they may not be classified as mass transportation, they do not have a specific route that interconnects with all other mass transportation services such as the AMA, public carriers, and the *Tren Urbano*.

In its position paper dated June 6, 2008, the DTOP stated that, upon analysis of the measure, it had certain concerns that were inconsistent with its purpose. Act No. 148 proposed the creation of a new office attached to the DTOP, which would require the appropriation of additional funds. The DTOP emphasized that it does not have sufficient mechanisms to be able to make an in-depth evaluation of the implications that this Act could have for the agency, the CSP, carriers, and non-tourist taxis, and most especially, the users of these services, inasmuch as such a transition would take time, require a large investment that the Department is not able to assume at this time, and be quite complex. The greatest concern of the DTOP at the time of analyzing the measure in terms of resources is precisely what moves us to introduce this legislation.

In view of the Government's current predicament in terms of the reduction of personnel in the agencies, it is clear that the DTOP shall not be able to discharge the new functions set forth in Act No. 148, *supra*. Due to all the shortcomings set forth in their position paper, the DTOP did not support the bill.

In its position paper dated February 14, 2008, the CSP stated that, as of that time, it was the only Agency with an infrastructure that allowed for the handling of differences between public carriers, the public, and other elements that play a role in Puerto Rico's transportation services. One of them is fixing the rates, which becomes more difficult when there are fluctuations in the price of oil and its byproducts. The CSP stated that, at this time and in view of the foregoing, it is the Agency with greatest expertise to regulate public transportation and taxis throughout the Island, since it has the necessary tools to manage all the elements and variables involved in solving the various problems of the public transportation sector, and meet the needs of users who demand such services. Lastly, the CSP pointed out that, by keeping the jurisdiction, they are able to reach agreements for definitive and specific purposes, which result in better services to non-tourist taxis.

It should be noted that this measure shall not affect the purpose of Act No. 148, since non-tourist taxis offer personalized services according to their clients' needs, both as a liaison with mass transportation in the metropolitan area and as a means to take the client directly to any location in the Island where he/she may need to go. Pursuant to the analysis conducted, this Legislative Assembly deems it essential that the Public Service Commission continue to administer and regulate all matters pertaining to non-tourist taxis.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:

Section 1.—The Title of Act No. 148 of August 3, 2008, as amended, is hereby amended to read as follows:

“To transfer the competence of the planning and regulation of mass transportation provided by vehicles from the Public Service Commission to the Department of Transportation and Public Works, in order to establish through an Administrative Order, a Public Vehicle Regulating Office; direct that said officer adopt Regulations on the Planning and Regulation of Public Vehicles; create a Consulting Council to advise the Department of Transportation and Public Works, its Public Vehicle Regulating Office, and the Transportation Advisory Board on the planning and regulation of mass transportation provided by public vehicles; and for other related purposes.”

Section 2.—Section 1 of Act No. 148 of August 3, 2008, as amended, is hereby amended to read as follows:

“Section 1.—The planning and regulation of mass transportation provided by public vehicles shall be henceforth under the competence of the Department of Transportation and Public Works, with the advise of the Transportation Advisory Board and the Consultative Council established herein. Provided, that the Department of Transportation and Public Works shall not have competence on the tourist ground transportation regulated by the Tourism Company, pursuant to the provisions of Act No. 282 of December 19, 2002, as amended, known as the ‘Puerto Rico Tourist Ground Transportation Act.’”

Section 3.—Section 2 of Act No. 148 of August 3, 2008, as amended, is hereby amended to read as follows:

“Section 2.—The Secretary of the Department of Transportation and Public Works shall establish through an Administrative Order a Public Vehicle Regulating Office, which may be established as an independent unit or as part of

any program or initiative within said Department. The Secretary shall also adopt Regulations on the Planning and Regulation of Public Vehicles in order to implement this Act.”

Section 4.—Section 4 of Act No. 148 of August 3, 2008, as amended, is hereby amended to read as follows:

“Section 4.—The Department of Transportation and Public Works, its Public Vehicle Regulating Office, and the Transportation Advisory Board shall be advised on all that concerns the implementation of this Act by a Consultative Council, which shall be composed of:

(a) The officer in charge of the Public Vehicle Regulating Office, who shall chair the same;

(b) The Executive Director of the Highways and Transportation Authority, or his/her authorized representative;

(c) The Executive Director of the Metropolitan Bus Authority, or his/her authorized representative;

(d) The Executive Director of the Tourism Company, or his/her authorized representative;

(e) The Secretary of the Department of Consumer Affairs, or his/her authorized representative;

(f) Four (4) public interest representatives, two (2) of which shall be owners of small motor vehicles (public vehicles), designated by bona-fide representatives of carriers, according to the regulations adopted pursuant to this Act, and two (2) shall be citizens who frequently use the mass transportation system.

The Regulations adopted pursuant to this Act shall determine all that pertains to the operations and organization of the Consultative Council. The Council shall meet at least six (6) times every year and shall render reports to the Legislative Assembly, the Governor, and the Secretary of the Department of Transportation and Public Works, as determined by the Council itself, but not less than once every year.”

Section 5.—Section 5 of Act No. 148 of August 3, 2008, as amended, is hereby amended to read as follows:

“Section 5.—The Department of Transportation and Public Works shall be the sole regulatory agency of public transportation, including public vehicles, pursuant to the following provisions:

(1) All obligations, accounts, records, and funds, among other resources, assets, appropriations, rights, and files of the Public Service Commission related to public vehicles shall be transferred to the Department.

(2) Any debts, liabilities, responsibilities, and obligations of the Public Service Commission related to public vehicles shall be deemed to be imposed on the Department.

(3) All regulations, orders, resolutions, circular letters, and any other administrative documents of the Public Service Commission shall remain in effect as regulations, orders, resolutions, and circular letters of the Department, until the same are amended, supplemented, repealed, or rendered ineffective by the Secretary pursuant to the applicable provisions of law.

(4) The Department may exercise any and all powers, authorities, functions, rights, prerogatives, privileges, and attributions and shall be entitled to all exemptions, rights, and benefits exercised by the Public Service Commission, pursuant to all applicable provisions of law, especially all that concerns the fixing and collection of rates, fees and the granting of franchises. However, any change or alteration of any already established operating route shall be made in coordination with the Public Service Commission.”

Section 6.—Section 6 of Act No. 148 of August 3, 2008, as amended, is hereby amended to read as follows:

“Section 6.—The Public Vehicle Regulating Office shall be initially nourished from the funds destined or administered at present by the Public Service Commission in all that pertains to the regulation of public vehicles. It shall also be nourished from those funds granted, from time to time, by Municipal Governments, the Department of Transportation and Public Works, and any other Federal or Commonwealth government entities or private persons. The budget of the Office shall be part of the budget of the Department of Transportation and Public Works in the Joint Resolution on the Budget of the Commonwealth of Puerto Rico. The Department may accept and administer donations, inheritances, and bequests or any other aid provided by the laws of Puerto Rico or the United

States of America, or by any other entity or person, and may request and enter into agreements with the United States of America or the Commonwealth of Puerto Rico or any agency or instrumentality thereof or any other public or private entity, including municipalities, foundations, corporations, government bodies, or persons for loans, donations, bequests, or other aid. The Department is hereby authorized to agree to and comply with the requirements, obligations, terms, and conditions imposed with respect to any of said loans, donations, bequests, or other aid.”

Section 7.—Restitution of Jurisdiction.—

All the provisions on matters pertaining to Non-tourist Taxis in Act No. 109 of June 28, 1962, as amended, known as the “Puerto Rico Public Service Act,” are hereby reestablished.

Section 8.—Repealing Clause.—

Any provision of law or regulation that is incompatible with the provisions of this Act is hereby repealed to the extent of such incompatibility. In the event that any article, section, paragraph, subsection, rule, or provision of this Act is repealed or amended, or found to be null or unconstitutional, the remaining provisions and parts that are not shall remain in effect and be applied to the extent possible. If the application of this Act to any person or circumstance should be found null, its nullity shall not affect other provisions of this Act that can remain in effect without referring to the provision thus annulled.

Section 9.—This Act shall take effect immediately after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following **Act No. 125-2010 (H. B. 2212)** of the **3rd Session of the 16th Legislature** of Puerto Rico:

AN ACT to amend the Title and Sections 1, 2, 4, 5, and 6 of Act No. 148 of August 3, 2008, as amended, in order to exclude Non-tourist Taxis from the application of said Act; reestablish the jurisdiction, competence, and rulemaking authority of the Public Service Commission over Non-tourist Taxis; and for other purposes.

has been translated from Spanish to English and that the English version is correct.

In San Juan, Puerto Rico, on the 13th day of December, 2012.

María del Mar Ortiz Rivera