

# Comments on the Draft proposal for the Road Transport Act

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American Chamber of Commerce in Croatia *Američka gospodarska komora u Hrvatskoj*

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# Contested provisions of the Act

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With this document, the American Chamber of Commerce in Croatia (AmCham) presents its position on the Draft proposal of the Road Transport Act (hereinafter referred to as: the Act)

The Draft proposal of the Road Transport Act is generally acceptable, but AmCham deems necessary to provide suggestions for further improvements.

AmCham contests the following provisions of the Act:

## **General definitions, Article 4, paragraph 1, item 1**

*(1) Within the meaning of this Act, certain terms have the following meanings:*

*1. "taxi service" is the service of public transport of passengers carried out with a passenger car, if a passenger or group of passengers are boarding in one or more locations and disembarking at another location, and such transportation is performed on the basis of one booking and one payment of the total fare for carrying out transport service defined by a taximeter, electronic application or other appropriate device under pre-notified terms and conditions, wherein the transport booking is made by phone call, electronic application or directly with the driver, and which has no characteristics of other forms of transport,*

AmCham supports the introduction of an electronic application for determining remuneration for transport and booking of transport, which is an important step towards a digital society and shows that the Croatian legislator follows the guidelines of the European Commission (EC) and the Organization for Economic Cooperation and Development (OECD), as well as the best regulatory practices of EU countries. The use of digital platforms is complementary to the development of tourism, as foreign tourists are largely accustomed to using these platforms which provide them with a sense of familiarity and security. The EC encourages the use of digital platforms for several reasons, including greater transparency on the market, better consumer protection, and meeting the tax obligations of all market participants.

AmCham proposes an introduction of the possibility of transportation carried out based on one or more bookings, one or more payments, and that passenger disembarkation can be performed at one or more locations. This is very important for the development of a sharing economy and innovative services such as carpooling.

AmCham proposes the following wording for Article 4, paragraph 1, item 1:

*1. "taxi service" is a service of public transport of passengers carried out by a passenger car, if a passenger or group of passengers are boarding in one or more locations and disembarking at one or more locations, and such transportation is performed on the basis of one or more bookings and with one or more payments of the total fare for carrying out transport defined by a taximeter, electronic application or other appropriate device under pre-notified terms and conditions, wherein the transport booking is made by phone call, electronic application or*

*directly with the driver, and which has no characteristics of other forms of transport,*

### ***Professional competence of drivers, Article 5, paragraph 2***

*(2) Drivers who operate vehicles for taxi service and who provide vehicle rental with driver services as a special form of transport, for which a category B driving license is required, must obtain initial qualification under the special program for category B drivers and do not have to be trained through periodic training.*

AmCham believes that professional competence is not required for drivers driving category B vehicles - drivers performing taxi service and vehicle rental with a driver. The acquisition of an initial qualification under the special program for B category drivers is not necessary from a security standpoint and is an unnecessary bureaucratic burden for individuals wishing to perform taxi services. Category B driving license and other conditions prescribed by law for drivers should be sufficient to provide taxi and vehicle rental with driver services. The European Commission recommends liberalizing the conditions for entry into the labor market in order to improve economic opportunities for as many citizens as possible.

AmCham proposes the following wording of Article 5, paragraph 2:

*(2) For drivers operating vehicles for taxi service and providing vehicle rental with driver services as a special form of transport for which a category B driving license is required, professional competence is not required.*

### ***Initial qualifications, Article 7, paragraph 6***

*(6) The initial qualification for operating category B vehicles for taxi services and providing vehicle rental with driver services as a special form of transport consists of a theoretical exam on knowledge of traffic regulations.*

AmCham believes that the initial qualification for operating category B vehicles is not required. The acquisition of an initial qualification under the special program for B category drivers is not necessary from the security aspect and is an unnecessary bureaucratic burden for individuals wishing to provide taxi services. Category B driving license and other conditions prescribed by law for drivers should be sufficient to provide taxi and vehicle rental with driver services. The European Commission recommends liberalizing the conditions for entry into the labor market in order to improve economic opportunities for as many citizens as possible.

AmCham proposes the following wording of Article 7, paragraph 6:

*(6) For operating category B vehicles for taxi services and vehicle rental with driver services as a special form of transport initial qualification is not necessary.*

## **Types of licenses in national road transport, Article 14, paragraph 6**

*(1) A legal or natural person - sole proprietor may carry out the activity of public road transport of passengers or cargo in national road transport if he/she is registered with a court or business register for carrying out the activity of road transport and possesses a license for national transport issued by the State Administration Office in the County, or the Administrative Body of the City of Zagreb responsible for traffic, according to the headquarters/residence of the carrier.*

*(2) The body referred to in paragraph 1 of this Article shall issue a national transport license for the following types of transport:*

- public transport of goods in national road transport,*
- public transport of passengers in national road transport,*
- special forms of transport of passengers in national road transport,*
- taxi services.*

*(6) With an ordinance, the Minister shall prescribe the national road transport license form, the fee for issuing a particular license, the procedure for issuing the license, and additional conditions for issuing a particular license from paragraph 2 of this Article.*

AmCham believes that legal certainty and legislative practice require all conditions for issuing a particular license to be exhaustively prescribed by law. It is established practice that subordinate acts only specify the terms of the law already set forth, but they are by no means introducing new terms that are not already listed in the law. The law aimed at removing administrative barriers to carriers should not leave the possibility for subsequent subordinate acts to come up with different interpretations and provisions that are inconsistent with the proposal itself.

AmCham proposes the following wording of Article 14, paragraph 6:

*(6) With an ordinance, the Minister shall prescribe the national road transport license form, the fee for issuing a particular license, and the procedure for issuing a license.*

## **Conditions for obtaining a license for national transport, Article 15**

*(1) A national transport license may be obtained by a natural person - sole proprietor or a legal person if they:*

- 1. have good reputation,*
- 2. have financial capacity,*
- 3. meet the condition of professional competence,*
- 4. own at least one registered motor vehicle for certain types of transportation services requiring a license or have the right to use that vehicle on the basis of a lease agreement, a sublease agreement or a rental agreement,*

5. *meet additional requirements for certain types of licenses prescribed by the Ordinance referred to in Article 14, paragraph 6 of this Act,*
6. *have at least one employed driver per vehicle*

*(2) For performing taxi services, a legal or natural person - sole proprietor does not have to meet the requirements from paragraph 1, items 2 and 3 of this Article.*

AmCham believes that it is necessary to exclude item 5, since legal certainty and legislative practice require all conditions for issuing a particular license to be exhaustively prescribed by law. It is established practice that subordinate acts only specify the terms of the law already set forth, but they are by no means introducing new terms that are not already listed in the law. The law aimed at removing administrative barriers to carriers should not leave the possibility for subsequent subordinate acts to come up with different interpretations and provisions that are inconsistent with the proposal itself.

AmCham proposes the following wording of Article 15:

*(1) A national transport license may be obtained by a natural person - sole proprietor or a legal person if they:*

1. *have good reputation,*
2. *have financial capacity,*
3. *meet the condition of professional competence,*
4. *own at least one registered motor vehicle for certain types of transportation services requiring a license or have the right to use that vehicle on the basis of a lease agreement, a sublease agreement or a rental agreement,*
5. *have at least one employed driver per vehicle*

*(2) For performing taxi services, a legal or natural person - sole proprietor does not have to meet the requirements from paragraph 1, items 2 and 3 of this Article.*

### ***Providing taxi services for transportation of passengers, Article 47***

*(1) Carriage of passengers by taxi service in national road transport is performed on the basis of a carriage of passengers by licensed taxi service license and permits for the taxi service.*

*(2) Legal and natural persons - sole proprietors providing taxi services may use the stands used for public transport vehicles, taxi stands, and specially marked traffic lanes that give right of way.*

*(3) The permit for providing the taxi services referred to in paragraph 1 of this Article shall be issued by the competent authority of the local administrative unit, or the City of Zagreb, in and from the area in which the taxi service is carried out.*

*(4) The permit referred to in paragraph 2 of this Article shall be issued by the competent authority of the local administrative unit, or the City of Zagreb, to legal*

*or natural persons - sole proprietors holding a valid license for providing taxi services in national road transport.*

*(5) The local administrative unit, or the City of Zagreb, cannot limit the number of permits.*

*(6) The local administrative unit, or the City of Zagreb, may issue a regulation establishing the position of the taxi stands and how to use them, as well as the amount of the license fee.*

*(7) The fee for issuing a license may not exceed one tenth of the average monthly net salary in legal entities in the local administrative unit, or the City of Zagreb, for the last month for which the data is published and which precedes the filing of the application for a license.*

*(8) A legal person or a natural person - sole proprietor shall submit to the local administrative unit, or the City of Zagreb, a request for a license in writing or in electronic form. The application must be accompanied by a valid license for the carriage of passengers by taxi service.*

*(9) If it is possible to issue a license in electronic form, all necessary evidence shall be enclosed in digital form.*

*(10) If the applicant meets the prescribed conditions, the local administrative unit, or the City of Zagreb, issues a decision on the license for performing taxi services and submits the original license to the applicant.*

*(11) The local administrative unit, or the City of Zagreb, shall decide on an application for a license within 15 days from the date of filing the application.*

*(12) If the local administrative unit, or the City of Zagreb, does not decide on the request within that period, the license shall be deemed to have been issued on the first following day following the expiration of the decision-making deadline. In such a case the license is replaced by the request and proof of its submission to the administrative unit, or the City of Zagreb.*

*(13) The license is issued for the period of 10 years.*

*(14) The license is not transferable.*

*(15) When submitting an application for renewal of a license, the taxi service provider shall provide proof that he/she fulfills the conditions for obtaining a license for the carriage of passengers by taxi service.*

*(16) If the applicant does not fulfill the prescribed conditions for issuing or renewing a license, the local administration unit, or the City of Zagreb, shall reject the application by a decision against which the appeal may be filed with the Ministry. The appeal is submitted to the Appeals Board of the Ministry and postpones the execution of the decision.*

*(17) The original of the license shall be located at the headquarters of the taxi service carrier. When performing taxi service, i.e. during the ride, a taxi driver is obliged to have a copy of the license in the vehicle.*

*(18) Supervision of the carriage of passengers by taxi service in national road transport shall be carried out by road transport inspectors and municipal services monitoring office and/or traffic wardens of the local administrative unit on which territory the taxi service is carried out.*

*(19) In performing the supervision referred to in paragraph 18 of this Article, the municipal services monitoring officer and/or traffic wardens of the local administrative unit have the authority of road traffic inspectors prescribed by the law regulating the organization and powers of road traffic inspection.*

AmCham believes that permits for providing taxi services issued by local administrative units are not necessary and represent additional bureaucratization and cost for entrepreneurs providing taxi services. It is necessary to regulate taxi services in such a way that the license is sufficient to carry out activities throughout the entire territory of the Republic of Croatia.

AmCham proposes the following wording of Article 47:

*(1) Carriage of passengers by taxi service in national road transport is performed on the basis of a license for the carriage of passengers by taxi service.*

*(2) Legal and natural persons - sole proprietors providing taxi services may use the stands used for public transport vehicles, taxi stands, and specially marked traffic lanes that give right of way.*

*(3) Supervision of the carriage of passengers by taxi service in national road transport shall be carried out by road transport inspectors and municipal services monitoring office and/or traffic wardens of the local administrative unit on which territory the taxi service is carried out.*

*(4) In performing the supervision referred to in paragraph 3 of this Article, the municipal services monitoring officer and/or traffic wardens of the local administrative unit have the authority of road traffic inspectors prescribed by the law regulating the organization and powers of road traffic inspection.*



