

APPLYING LAW FOR PASSENGER TRANSPORT: INTERNATIONAL EXPERIENCES AND PROPOSALS FOR VIETNAM

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Abstract

Passenger transport activities and passenger transit are currently very developed and diverse in many forms. So, what exactly is passenger transport? How many forms of passenger transport are there? What legal regulations regarding passenger transport still need attention and exploration? What are the experiences for Vietnam in applying passenger transport laws in administration and enforcement in practice?

Key words: *law, passenger transport, international experiences*

Introduction

Passenger transport is an activity conducted by businesses or cooperatives that provide transportation services. What are the current legal regulations on passenger transport business? What do these regulations entail?

1. General Concept of Passenger Transport

1.1. Definition

Passenger transport is an activity conducted by businesses or cooperatives that transport passengers using vehicles on fixed routes, picking up and dropping off passengers at bus stations, pickup points, and drop-off points. Generally, passenger transport is a type of business where the main product is the service they provide to customers, which includes the manner of pickup and drop-off, the condition of the vehicle, the route, etc. Passenger transport involves transporting passengers from the starting point to the stopping point according to the passenger's transport contract.

1.2. Rights and Obligations in Passenger Transport

1.2.1. Rights and Obligations of the Passenger Transport Operator

1.2.1.1. Rights of the Passenger Transport Operator

Passenger transport operators have the right to charge transport fees. Since they provide services to passengers, they are entitled to collect fees to benefit from their services. They are allowed to refuse transport before the vehicle departs from the station or pickup point if those who have tickets or are listed in the contract exhibit behaviors such as disturbing public order, affecting the health or property of others, ticket fraud, inappropriate conduct, obstructing the work of the transport operator, or having infectious diseases.

1.2.1.2. Obligations of the Passenger Transport Operator

The transport operator is obligated to fulfill all transport commitments and contracts, purchase insurance for passengers (with the insurance fee included in the ticket price), issue tickets and transport documents for passengers and their goods, and compensate for damages caused by their employees or representatives during their work. They are responsible for the consequences of actions by their employees or representatives that are against legal regulations. The vehicle owner must have a valid driver's license and a permit to operate passenger transport. During transport, they must strictly adhere to traffic laws, not exceed the number of passengers allowed. For long-distance interprovincial transport, they must ensure passenger needs for food, drink, rest, and maintain a timely and safe schedule. To prevent traffic accident risks, the transport operator must purchase life

and health insurance for all passengers as required by law. The transport operator must compensate for damages in case of harm to passengers' lives, health, property, or any other damage if the insurance payout from the insurance company is insufficient to cover the losses. However, if the damage is entirely caused by the passenger, the transport operator is not required to compensate for the damage.

1.2.2. Rights and Obligations of Passengers in Passenger Transport

1.2.2.1. Rights of Passengers

Passengers have the right to request transportation using passenger transport vehicles according to the value of the ticket for the agreed route. Passengers have the right to request compensation or reimbursement of additional costs if the transport operator fails to transport them at the agreed time and place, causing inconvenience or loss. Passengers are entitled to use all services corresponding to the costs they have paid.

1.2.2.2. Obligations of Passengers

Passengers are obligated to pay the full fare to the transport operator when using passenger transport services. For transport on fixed routes, passengers are usually issued tickets. When boarding the vehicle, passengers must present their paid ticket to the vehicle manager. If a passenger intentionally avoids purchasing a ticket or refuses to pay the transport fees, they will be required to purchase a ticket with a penalty as prescribed by the State. During transport, passengers must take care of their personal belongings. If traveling with children, they must ensure that the children do not disturb other passengers or impede the transport process.

2. Passenger Transport Law

Passenger transport business involves providing transportation services by air, sea, inland waterway, railway, or road to serve tourists according to travel programs, in tourist areas, and at tourist sites.

Organizations and individuals engaging in passenger transport business must meet the business conditions for transport; comply with technical standards, and environmental protection regulations for transport vehicles; and adhere to the conditions for vehicle operators, service personnel, equipment, and service quality for each type of transport vehicle as prescribed by law.

Regulations for Service Personnel (Circular 42/2017/TT-BGTVT):

Service Personnel on Road Passenger Transport Vehicles:

Service personnel on tourist transport vehicles must be trained in business operations and legal regulations related to transport business as required by the Ministry of Transport.

Service personnel on tourist transport vehicles must be trained in tourism operations (except when the service personnel are tourist guides or have been trained in tourism or related fields at educational institutions from intermediate level or higher).

For drivers who also serve as service personnel when transporting tourists, the transport business unit must train the drivers in tourism operations similar to the training provided for service personnel.

Service Personnel on Inland Waterway Passenger Transport Vehicles:

Service personnel must be trained in business operations and legal regulations related to transport business as required by the Ministry of Transport; trained in lifesaving, firefighting, ship rescue, and first aid.

Service personnel on inland waterway passenger transport vehicles must be trained in tourism operations (except when the service personnel are tourist guides or have been trained in tourism or related fields at educational institutions from intermediate level or higher).

Tourist Passenger Transport Vehicles by Road:

Vehicles must meet the quality, technical safety, and environmental protection standards as prescribed by law.

Vehicles must be equipped with journey monitoring devices as required.

Vehicles must display all required information, including safety and emergency instructions near passenger seats, as required by the Ministry of Transport.

Vehicles must ensure the interior and amenities include:

For vehicles with fewer than 9 seats: air conditioning, drink containers, first aid kits, emergency tools, the vehicle owner's name and phone number behind the driver's seat.

For vehicles with 9 to fewer than 24 seats: sun-blocking curtains, safety instruction boards, trash bins.

For vehicles with 24 seats or more: microphones, luggage storage for tourists, seats for the elderly and disabled as required.

Tourist Passenger Transport Vehicles by Inland Waterway:

Vehicles must meet technical safety and environmental protection standards.

Vehicles must be equipped with automatic identification systems (AIS) when operating on routes from shore to islands or between islands as required by law.

Sufficient lifebuoys and life jackets must be provided for passengers.

The interior and amenities must include:

For vehicles with 12 to 20 seats: safety instruction boards, contact information for rescue agencies, drink containers, trash bins.

For vehicles with 20 to 50 seats: sun protection tools, microphones, first aid kits as required by the Ministry of Health, compliant dining service areas.

For vehicles with over 50 seats: sun-blocking curtains, air conditioning or fans, restrooms.

2.1 Issuance of Tourist Transport Vehicle Permits

Tourist transport vehicles are issued permits when they meet regulatory conditions.

Permitted vehicles are allowed to transport passengers by contract and are given priority for docking, stopping, and parking to pick up and drop off tourists at airports, ports, stations, bus terminals, tourist areas, near tourist sites, and accommodations. They are allowed to operate without time restrictions on routes leading to tourist attractions, accommodations, and service facilities as per local government regulations.

The government prescribes the procedures, authority, and issuance of tourist transport vehicle permits in Section 2, Chapter V of Decree 168/2017/ND-CP.

2.2. International Experiences and Proposals for Vietnam

Risk Management for Transport Operators:

Standard Transaction Conditions: Always consult a competent maritime lawyer regarding the acceptance of standard transaction conditions and the provision of these transactions both offline and online.

Clear Communication: Ensure that all terms are understood and accepted by customers before signing any transport contracts.

Liability Insurance: Purchase cargo liability insurance designed for transport service providers, detailing legal obligations for losses or damages under approved transaction terms.

Explicit Communication: Clearly inform customers that cargo insurance is not included as part of any transport transaction.

Insurance as a Risk Management Tool: Offer cargo insurance as a risk management tool to minimize liability during operation.

Pre-arranged Solutions: For specialized contracts with particular clients, transport providers should contact insurers to pre-arrange insurance solutions and understand coverage scopes.

Risk Transfer to Subcontractors: Always seek advice from a competent maritime lawyer about signing principal contracts with subcontractors and clearly outline the risk transfer process.

Heavy and Oversized Cargo Management: Insurers provide risk management support for the types of risks they cover.

3. Recommendations

Comply with the rights and obligations of organizations and individuals engaged in passenger transport business.

Ensure passenger transport for tourists by contract with travel service businesses, following suitable routes and itineraries.

Purchase insurance for tourists on transport vehicles.

Ensure standards and conditions are met throughout the operation and use of transport vehicles.

Attach transport signage in easily recognizable locations on transport vehicles.

4. References

Enterprise Law 2020

Civil Procedure Code 2015

Tourism Law 2017

Decree No. 168/2017/ND-CP detailing some articles of the Tourism Law

Circular No. 42/2017/TT-BGTVT of the Ministry of Transport: Regulations on conditions for vehicle operators, service personnel, equipment, and service quality on tourist transport vehicles

Decree No. 10/2020/ND-CP on business and conditions for automobile transport business

