

Intercity Bus Modernization: Creating Opportunities and Connecting Ontario Communities



Ministry of Transportation

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Introduction

The intercity bus industry plays a critical role in Ontario's transportation system. Whether it's a senior citizen taking the bus to a doctor's appointment, an individual visiting family, or a hockey team travelling to an away game, buses take people where they need to go.

However, the transportation landscape in Ontario is evolving. New technologies, as well as an aging and increasingly urban population, have changed the way people travel and access important services. For example, in northern Ontario intercity buses play a critical role in providing medical transfer services to non-urgent patient transport and delivery of medical supplies. The regulations governing the intercity bus industry need to keep pace with the changing needs of the travelling public and ensure that buses remain a viable means of transportation for Ontarians. As part of Ontario's commitment to facilitate new and innovative choices for intercity passenger travel, over the next few months the Ministry of Transportation (MTO) will be consulting with industry, municipalities, and the general public to discuss a potential path forward. Consultation on intercity passenger travel links with a broader government commitment to consult on a provincial approach to the sharing economy: a new sector in which online platforms and innovative technologies facilitate exchanges of goods and services (e.g. Uber, AirBnB). For more information on Ontario's consultation on the sharing economy, please visit: <http://www.fin.gov.on.ca/en/business/sharingeconomy/>.

This discussion paper serves as the basis of MTO's consultation on the intercity bus regulatory regime. It will highlight the current challenges facing the intercity bus industry and how the province proposes to address these challenges through regulatory reform. The focus of this discussion paper is on passenger travel between communities, not passenger services provided within a community. Towards the end of the discussion paper, key questions will be asked and we invite you to provide us with your comments.

To guide our efforts, MTO has developed a set of principles that will underpin the proposal with the ultimate goal of modernizing the intercity bus regulatory regime:

1
Ensure safety and insurance requirements are appropriate and implemented

2
Foster an open, innovative and dynamic market

3
Respond to the needs of communities and the travelling public

Key Challenges Facing the Intercity Bus Industry Today

An intercity bus service is one that takes paying customers across a municipal boundary or between jurisdictions. Vehicles used for this type of service, as defined in the *Public Vehicles Act (PVA)*, can include motor coaches, school buses, municipal transit systems, airport vans and limousines. These services can be provided in many ways, including:

- Scheduled services: where passengers and parcels travel from one city, town, or village to another on a fixed route and a regular timetable
- Chartered services: where a group or organization hires a bus for a specific purpose, such as transporting a hockey team from Espanola to a tournament in Sault Ste. Marie.
- Tour services: where a group or organization hires a bus as part of a travel package, such as a seniors club in Cornwall hiring a company to provide bus services for a two-day tour of Ottawa.
- School bus services: where a school board hires a bus company to provide home-to-school and school trips that cross a municipal boundary.

Established in the late 1920s, Ontario's regulatory framework for the intercity bus industry was designed to ensure the availability of intercity transportation services to the public by way of controlling entry into the market. The PVA gives the Ontario Highway Transport Board (OHTB) the authority to control entry into the intercity bus market in Ontario. Under the PVA, any company that wants to provide an intercity bus service must first obtain a licence from the OHTB. The OHTB considers the following factors to determine if a licence should be granted:

- The public demand for a bus service;
- The need for competition, and the impact this service could have on licensed bus companies;
- Whether the bus company is able and willing to provide a variety of bus services, including both profitable and unprofitable services; and
- Whether the bus company's proposed operation suits the needs of the community.

These same regulations which oversee the entry into the intercity bus market now pose challenges to the health of the intercity bus sector in today's changing market. Bus companies are granted public vehicle licences which never expire or have to be renewed. If the route on which a bus company is licensed becomes unprofitable for example, the company can discontinue services but continue to hold the licence and could potentially object to any new entrants applying for a licence to service that route.

Additionally, bus companies previously used profits from certain routes and services (such as charter services and carriage of goods/parcels) to fund less profitable routes – called “cross-subsidization.” This has declined in recent years, as companies increasingly require individual business lines to be independently profitable.

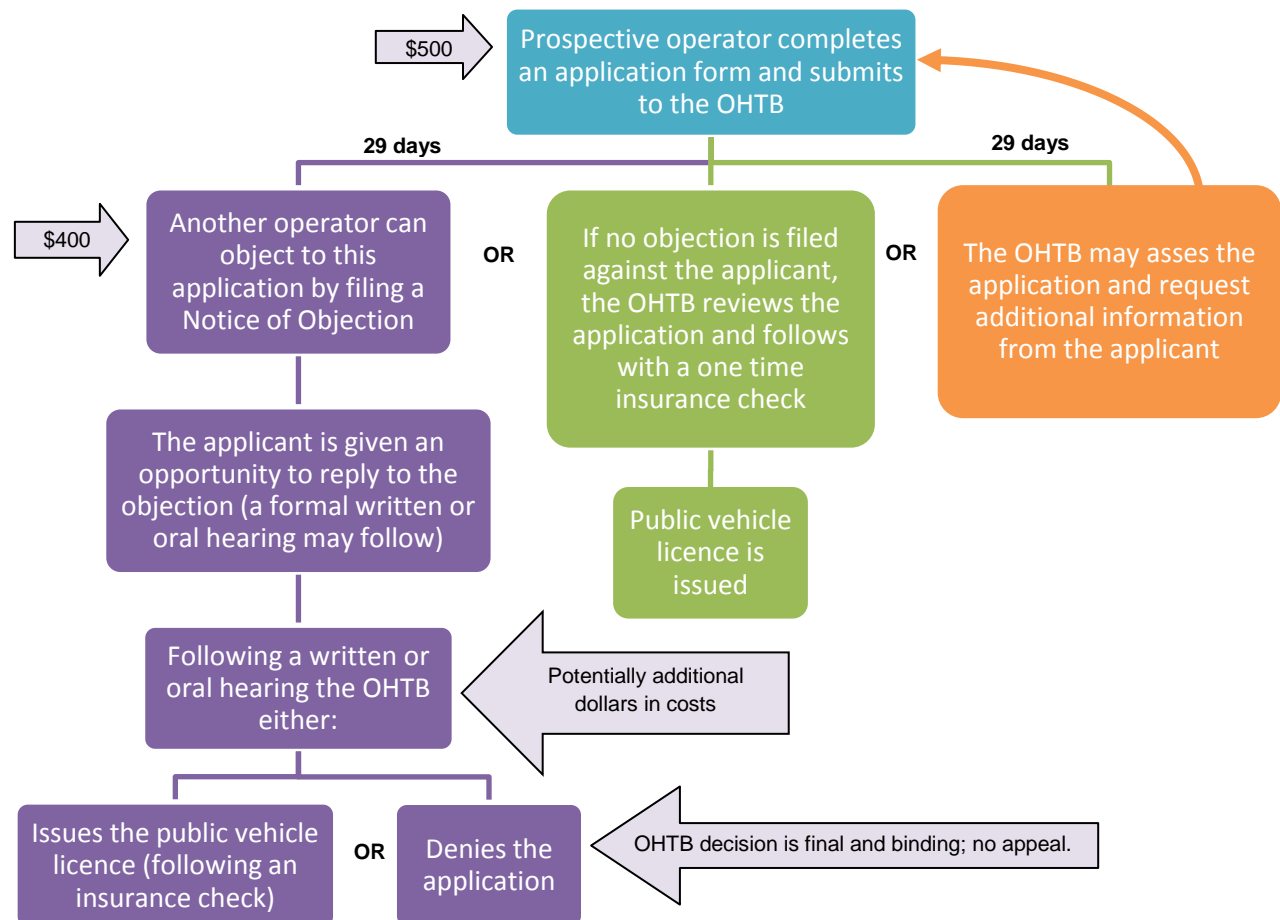
This has had a worsening effect on large areas of the province (particularly in the north, but also in southwestern Ontario) that have experienced limited or no bus service at all, leaving them isolated from important resources like hospitals and other community services. As will be discussed in greater

detail below, it is this licensing system that MTO is proposing to amend, in order to better ensure that all Ontarians have access to viable modes of intercity bus transportation.

Operating an Intercity Passenger Service in Ontario Today

A challenge facing the intercity bus industry is the licensing process which exists in Ontario today. Essentially, any company that wishes to operate an intercity bus service in Ontario must comply with two separate processes, illustrated in the following diagrams. The first diagram depicts the process of obtaining a public vehicle licence. New applicants are required to prove to the OHTB that their operations have merit, and this may prove to be difficult if they are applying to service a route that is already being serviced. Applicants also assume the risk that their application might face objections from existing operators, which can result in relatively large legal and administrative fees that small businesses often do not have.

The illustration below demonstrates the current process for securing a public vehicle licence from the OHTB:



- ❖ The Ontario Northland Transportation Commission (ONTC) and Metrolinx (which operates GO Transit) are public sector agencies of the Ontario government that provide bus services between communities. Both agencies are exempt from the requirement to obtain a public vehicle licence.

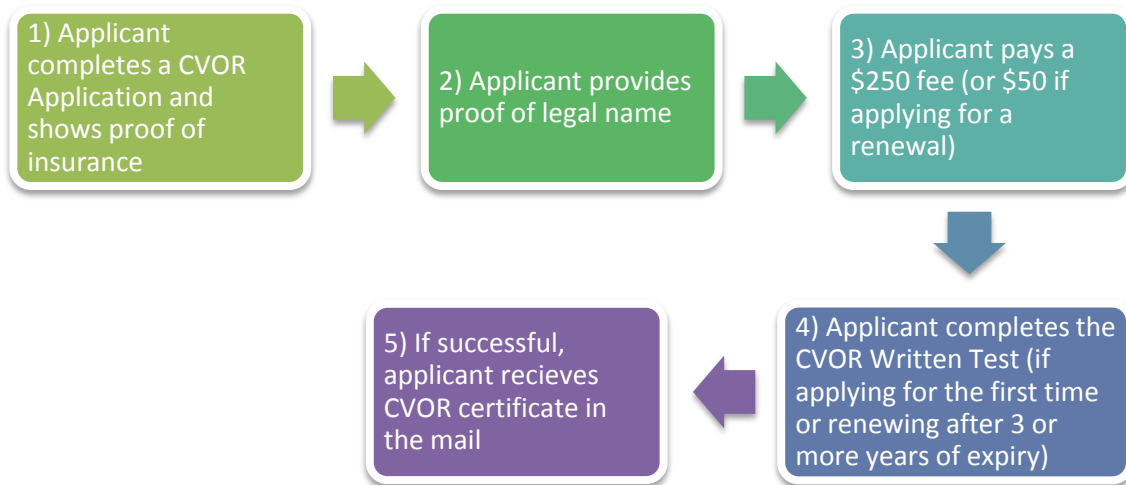
The following diagram illustrates the second process that an intercity bus company must complete. In order to operate intercity passenger vehicles that carry 10 or more passengers for hire in

Ontario, a company must obtain a Commercial Vehicle Operator's Registration (CVOR). This process ensures that bus companies have all the necessary safety measures in place to operate in Ontario, in addition to the public vehicle licence.

A CVOR certificate is issued to a commercial vehicle operator or business and tracks convictions, collisions and vehicle inspections for the operator. As a commercial vehicle, buses with over 10 passengers, are also required to comply with other safety regulations requiring; regular maintenance, semi-annual inspection and daily inspection of the vehicle and fatigue management for the drivers.

The CVOR program, which is built on a national standard for commercial motor vehicles, monitors the operator of a commercial vehicle(s). While the program does record the number of vehicles an operator may have in a fleet, it does not track each individual vehicle. A registered operator also receives a CVOR safety rating, which is based on collisions, convictions and inspections of commercial vehicles. Under the current system, collision and conviction data for vehicles with less than 10 passengers would not be monitored as these vehicles are not easily identifiable on the road or in the ministry's existing database. The existing program may be modified to accommodate these smaller vehicles; however, changes would be required to the existing program in order to provide the appropriate oversight.

The illustration below demonstrates the current process for securing a CVOR certificate:



- ❖ The ONTC and Metrolinx are not exempt from the requirement to obtain a CVOR certificate.

What We've Heard

The 2016 Ontario Budget, *Jobs for Today and Tomorrow*, announced consultation with industry and communities on options to facilitate new and innovative choices for intercity passenger travel. Prior to the announcement of consultation in the Budget, the mandate letter from Premier Wynne to Transportation Minister Steven Del Duca in 2014, directed the Minister to “develop recommendations on modernizing and appropriately regulating the intercity bus regime to ensure it remains an attractive and affordable travel option for Ontarians.”

In order to develop comprehensive and appropriate recommendations, MTO worked to gain an understanding of the perspectives of consumers and service providers. MTO has conducted several rounds of consultation, both formally and informally, which has provided a strong understanding of the challenges that face communities and the travelling public. Most recently, a posting to the Environmental Registry was launched on July 27, 2015 for an extended notice period that closed on October 23, 2015. The posting asked the traveling public and industry about their experience using and providing intercity bus services (why they take the bus, what keeps them from taking the bus, how the bus industry could improve, etc.). The ministry received an overwhelming response, not just from travellers and bus companies, but also from municipalities, social service providers, and health organizations. Many of these comments highlighted issues related to the critical role intercity buses play across sectors, especially in patient transport and medical supply delivery. Over 100 comments from across all sectors and regions of the province were submitted. The input MTO received from individuals and organizations provided invaluable insights into the needs and challenges of the intercity bus sector today. The table below outlines what MTO has heard through the Environmental Registry and previous rounds of consultation.

<p>Private Carriers</p>	<ul style="list-style-type: none"> • An uneven playing field between private and public sector bus companies, the rising costs of doing business, and capital investment without tax or other assistance has posed significant challenges for industry growth. Other carriers welcome opportunities for competition under new regulatory requirements while a few have proposed a “franchise” model whereby subsidies would be provided to bus companies by the government to service specific routes.
<p>Municipalities and Transportation Advocacy Groups</p>	<ul style="list-style-type: none"> • The intercity bus industry should be better integrated with other travel modes. This objective can be looked at further, particularly in the north, as part of MTO's work on the Northern Ontario Multimodal Transportation Strategy (NOMTS).
<p>Social and Health Service Providers</p>	<ul style="list-style-type: none"> • Intercity bus is an essential service, especially to northern communities. For example, without meaningful intercity bus services, residents have trouble accessing Ontario Works and ambulances are used to shuttle non-urgent medical patients. Some social service organizations that provide services to women and families in northwestern Ontario, stressed the importance of intercity bus services to vulnerable groups.
<p>Public</p>	<ul style="list-style-type: none"> • Individuals in southern Ontario frequently stated the need for better schedules, better buses and terminals, and a more pleasant riding experience. Similarly, respondents in northern Ontario cited lack of reliable service, lack of clean and safe terminals, and high ticket prices as deterrents to travelling on intercity buses. Residents in both northern and southern Ontario also stressed the importance of having bus service in their communities to allow them to access medical services, travel for work, and visit family.

This feedback underscores the significant challenges to the health and sustainability of the intercity bus industry and the importance of these services to the communities they serve across the province. That is why MTO is proposing a new path forward that will open up opportunities for innovative

solutions to meet the needs of Ontarians, while ensuring that safety and insurance remain the highest priority.

The Path Forward

The transportation sector in Ontario is evolving. The intercity bus industry faces increased competition from cars, as well as from other public transportation modes (such as airlines and railways) that offer customers incentives such as discounts, off-peak deals, and travel points.

In today's climate, bus companies should be able to more freely enter the market and compete with other similar services. In many jurisdictions, including Ontario, government control of market entry into trucking, rail, and air sectors has been eliminated. In these sectors, government focuses on the safety of passengers, vehicles and operators. Based on the experience of other jurisdictions following such regulatory reforms, there may be a period of market adjustment, until such time as the market stabilizes and replacement services become available.

To ensure that modernization of the intercity bus regulatory regime provides the best outcomes for the public, service providers, and communities alike, the following are the guiding principles for the proposed plan for regulatory reform, as outlined at the beginning of this discussion paper:

1. Ensure safety and insurance requirements are appropriate and implemented





A vital component to revitalizing the intercity bus industry is to ensure that safety and insurance remain the highest priorities for the wellbeing of passengers and operators. In order to do this, MTO is proposing that all bus companies continue to adhere to existing safety rules:

- The driver must hold a valid licence for the size and type of vehicle;
- The bus has lights that work, mirrors, fire extinguishers, exits and emergency exits;
- Proper insurance is required;
- Adhere to vehicle size and weight restrictions;
- There is a limit to the number of passengers who can stand in the vehicle; and
- The vehicle must meet specific maintenance standards.


As the transportation sector continues to evolve, smaller vehicles such as mini-vans carrying fewer than 10 passengers may be used to provide intercity passenger services. Smaller vehicles cost less to operate and may therefore be a better option to run intercity passenger service on routes that are typically considered "unprofitable" when serviced by large motor coaches. Smaller vehicles are currently not subject to the safety requirements that apply to the larger buses.

Right now, vehicles that carry 10 or more passengers are required to obtain a CVOR certificate and comply with MTO's commercial vehicle safety program. MTO recognizes that all operators carrying fare-paying passengers must be held to a higher safety standard to protect the travelling public as well as provide a level playing field. The challenge is encouraging new and innovative services that use smaller

vehicles (those carrying less than ten passengers), while balancing the need for reasonable safety rules for both drivers and vehicles. This raises the need to apply a safety and insurance oversight regime that recognizes the differences between a privately owned mini-van and a full-sized motor coach. The following table outlines the safety and insurance requirements mandated in Ontario today under the CVOR, *Highway Traffic Act (HTA)*, and *Public Vehicles Act*:

<u>Type of Vehicle</u>	<u>Current Requirements (CVOR, HTA, PVA)</u>	<u>Potential Path Forward</u>
<p>Motor Coach</p> 	<p>The <i>Highway Traffic Act</i> sets out basic safety requirements for all vehicles, including:</p> <ul style="list-style-type: none"> • Lamps required on all motor vehicles • Lighting requirements • Brakes • Tires and wheels • Seatbelts <p>Current Requirements as a commercial motor vehicle (CMV):</p> <p>Oversight</p> <ul style="list-style-type: none"> • Operator must hold a valid CVOR certificate • CVOR certificate or a copy must be carried in the vehicle • Subject to vehicle inspections as part of the ministry’s Bus Information Tracking (BITS) System • Subject to roadside inspections by MTO officers and police • Subject to facility audits by MTO • Subject to commercial vehicle impoundment for critical defects <p>Accessibility</p> <ul style="list-style-type: none"> • If the vehicle is accessible, additional regulatory requirements related to accessible vehicles apply (e.g. wheel chair ramp etc.) <p>Vehicle Maintenance</p> <p>Semi-annual safety inspections:</p> <ul style="list-style-type: none"> • Operator must ensure that each vehicle has an annual/semi-annual inspection and that records of inspections are kept on file <p>Daily Inspections</p> <p>Operator shall:</p> <ul style="list-style-type: none"> • Supply the driver with the daily inspection schedule • Ensure that daily inspections are conducted in the prescribed manner • Ensure the accurate completion of daily inspection 	<p>No new change proposed: existing safety requirements under the CVOR as well as additional insurance requirements stipulated in the PVA would continue to apply (i.e. an insurance oversight tool that would apply to all vehicles currently covered under the PVA).</p>
<p>Mini Bus</p> 		
<p>Transit or School Bus</p> 		
		

<u>Type of Vehicle</u>	<u>Current Requirements (CVOR, HTA, PVA)</u>	<u>Potential Path Forward</u>
	<p>reports</p> <p>Driver shall:</p> <ul style="list-style-type: none"> • Not drive a CMV on a highway unless a daily inspection has been conducted and an inspection report for each inspection has been completed • Have in his or her possession the daily inspection schedule and completed daily inspection report • Report any defects and report them immediately to the operator • Not drive a CMV with a defect as prescribed in HTA <p>Preventative Maintenance</p> <p>Operator shall:</p> <ul style="list-style-type: none"> • Establish a system, and prepare and keep a written record of that system, to periodically inspect and maintain all commercial motor vehicles • Ensure the commercial motor vehicles meet the prescribed performance standards • Shall maintain prescribed books and records and produce these upon demand of an officer • Keep inspection reports submitted by drivers for at least six months <p>Hours of Service</p> <ul style="list-style-type: none"> • Drivers are subject to limitations with regards to hours of service • If required, operators must complete and carry a log book and submit the original to the operator • Operators are required to keep the driver’s logs on file for 6 months • Operators are required to monitor the compliance of each driver to the regulations and take remedial action to address non- compliance <p>Insurance</p> <p>Minimum liability insurance as prescribed by the <i>Compulsory Automobile Insurance Act</i> - \$200,000, in addition to specific insurance requirements in the PVA (\$1-8 million).</p>	

Type of Vehicle	Current Requirements (CVOR, HTA, PVA)	Potential Path Forward
<p>Automobile or Van</p> 	<p>These vehicles are not currently regulated under the ministry’s CVOR program or the commercial vehicle safety requirements.</p> <p>The <i>Highway Traffic Act</i> sets out basic safety requirements for all vehicles, including:</p> <ul style="list-style-type: none"> • Lamps required on all motor vehicles • Brakes • Tires and wheels • Seatbelts <p>Accessibility</p> <ul style="list-style-type: none"> • If the vehicle is accessible, additional regulatory requirements related to accessible vehicles apply (e.g., wheel chair ramp etc.) • Accessible vehicles are also subject to semi-annual inspections. <p>Insurance</p> <p>Minimum liability insurance as prescribed by the <i>Compulsory Automobile Insurance Act</i> - \$200,000.</p>	<p>A system to ensure that all vehicles, including those carrying less than 10 passengers, are safe and properly insured when being used to transport people between municipalities for a fee. This raises the need for:</p> <ol style="list-style-type: none"> 1. An insurance oversight tool that would apply to all vehicles currently covered under the PVA. 2. A safety oversight tool that would apply to vehicles carrying passengers for-hire intercity (scheduled, charter, tour, or on-demand) that have a capacity of less than 10 passengers.

2. Foster an open, innovative, and dynamic market

Revitalizing intercity bus service in Ontario will mean removing barriers that discourage existing companies to innovate and prevent new companies from entering the market. The goal is to create a new environment for industry operators that foster:

- Opportunities for companies to enter the market more freely, as long as they meet all safety and insurance requirements;
- Opportunities for innovative service delivery models;
- Increased integration between intercity services, municipal transit services, and other community-based transportation services (e.g., non-emergency health and social service transportation services); and
- Opportunities for expansion of the sharing economy to fill service gaps such as last mile connections to transit systems as well as more “on-demand” and smaller scale services.

A key component to fostering an open, innovative, and dynamic market is to examine the licensing requirements faced by the intercity bus companies that want to enter the market or expand their business. To address this, the role of the public vehicle licence needs to be evaluated since it is the

primary licensing requirement under the PVA. The role of the OHTB also needs to be evaluated, due to its administrative role in Ontario's intercity bus regulatory regime.

Modernizing the licensing system in Ontario and removing barriers to market entry would offer a number of long-term benefits to the intercity bus industry, such as:

- Reducing regulatory burden;
- Cutting down on the costs of doing business for private sector operators, providing opportunities for companies to put that money directly into their business;
- Allowing market forces to influence the provision of service;
- Preventing monopolies and ensuring every entrepreneur has a fair chance to grow their business; and
- Fostering innovation and better quality services as a result of open competition.

3. *Respond to the needs of communities and the travelling public*

MTO recognizes that change to the intercity bus regulatory regime could impact services over the short term. However, by removing barriers to competition travellers could experience long term benefits as bus companies would likely become more innovative and efficient as they compete to meet the needs of the consumer. The expected benefits include:

- Lower fares, for a variety of services, as bus companies compete to keep passengers or attract new passengers;
- Improved services, as companies can determine which routes to take between destinations;
- Easier entry into the market place for new companies that can meet safety and insurance standards;
- A network of coordinated transportation service through collaboration with, for example, community and health transportation services; and
- Opportunities for more communities to be served by intercity buses.

With the increasing popularity of new technologies and the new sharing economy, the way in which people access services and transportation is rapidly changing. MTO is looking at new ways to support municipalities, social service providers, and health care providers in connecting with transportation companies to provide the best service to Ontarians possible.

The Community Transportation Pilot Grant Program, a \$2 million program, was launched in 2014 to improve community transportation services for seniors, persons living with disabilities, youth, and other members of the community who need transportation. The grant program provides funds to municipalities to partner with community organizations, such as health and community agencies, transit agencies, school bus operators, and private transportation operators to co-ordinate local transportation options, including intercity services, so more rides can be provided to more people, and to more destinations.

Twenty-two municipalities have been selected to receive up to \$100,000 each to provide better transportation services through the sharing and coordination of community transportation services and

resources. Some notable examples, which highlight the kinds of services that could emerge in the future, are:

- The District Municipality of Muskoka is providing a new daily, fixed-route shuttle and weekly bus routes to link rural and remote communities to the larger centres (e.g., Huntsville, Gravenhurst, and Bracebridge);
- In Papineau-Cameron, a new service was created using a school bus operator to connect eight (8) northern municipalities through centralized intake, booking, and scheduling; and
- Black River – Matheson has implemented a new service using school buses to transport seniors to medical appointments, shop and/or visit friends within the community and to Timmins and Iroquois Falls.

By modernizing the licensing system of the intercity bus industry, the approvals needed to put these kinds of important services in place could be greatly improved. This could make it much easier for transportation partnerships and networks to emerge. These types of partnerships and services are critically important, particularly in rural and northern communities, as they may help to address existing transportation issues related to transferring non-urgent medical patients and supplies.

Other Options Considered

Another potential option the ministry has considered would be to amend the existing legislation overseeing intercity buses. Under this option, the ministry would not eliminate the existing licensing scheme, and the OHTB would continue to serve an oversight function. Under this model, the following types of carriers would not be required to obtain a licence:

- Smaller vehicles that carry less than 10 passengers, not including driver;
- Transit authorities providing transit services into an adjacent municipality; and
- Operators providing charter services.

Economic regulation would be maintained and enhanced for only scheduled service operators that use large vehicles (i.e., vehicles that carry 10 or more passengers, not including driver). Enhancements could include:

- Establishing market exit controls (OHTB would have approval to reduce or discontinue scheduled service route);
- Authorizing OHTB to revoke or amend a public vehicle licence when scheduled service discontinued;
- Annual proof of insurance; and
- Implementing a public vehicle licence renewal program tied to an annual fee, which would be administered by OHTB.

This alternative provides a potential option for modernizing the intercity bus regulatory regime, however as previous consultation has revealed there are challenges with this hybrid approach. The issues and needs of the industry and travelling public are so multifaceted, that amending market entry regulations alone would not provide enough opportunities for the industry to grow and innovate.

Furthermore, this option would not streamline the licensing process and would therefore not pass on the associated benefits to industry and the travelling public.

Next Steps

Intercity buses provide invaluable services to Ontarians across the province. It is vitally important to ensure the health and sustainability of this industry. As mentioned above, the focus of this discussion paper is on passenger travel between communities, not passenger services provided within a community. The proposal MTO has presented here offers an opportunity to revitalize an important sector of Ontario's transportation system through regulatory modernization.

Alongside a public posting to the Environmental Registry, the ministry will be hosting consultation sessions throughout the summer. MTO will be presenting the discussion paper to stakeholders from around the province and in a number of different sectors. While the ministry is working towards completing the modernization review, all intercity bus services are required to fully comply with the current legislative and regulatory requirements (i.e. public vehicle licence).

Thank you for your involvement in this important commitment, your feedback on the proposal and any of the questions posed below is greatly appreciated.

Key questions

- 1) Do you support the removal of market entry controls of the intercity bus industry? Why or why not?
- 2) What are the benefits of removing market entry controls? What are the drawbacks?
- 3) A system needs to be in place to ensure that all vehicles, including those carrying less than 10 passengers, are safe and properly insured when being used to transport people between municipalities for a fee. What do you think the minimum safety and insurance requirements should be for these vehicles?
- 4) How much of your business is currently attributed to non-urgent medical transfer (patients, supplies, etc.)?
- 5) Could municipalities and social and health organizations better partner with transportation providers to serve the public? If so, how?
- 6) Are there any innovative services or policies currently in operation in Ontario or in other jurisdictions that you think provide a good model for how transportation networks can develop in the future?
- 7) Is there any other feedback you would like to provide on the issues and/or proposal outlined in this discussion paper?