

NEW YORK CITY TAXI AND LIMOUSINE COMMISSION

Notice of Public Hearing and Opportunity to Comment on Proposed Rules

Notice is hereby given in accordance with section 1043(b) of the New York City Charter (“Charter”) that the Taxi and Limousine Commission (“TLC”) proposes amending the provisions of Chapters 4, 5, 6 and 7 of Title 35 of the Rules of the City of New York to amend the rules regarding the Critical Driver’s Program. The proposed rule would clarify the following: the calculation of the 15-month “look back” period for a driver’s DMV record; the assignment of points as of the date of the DMV violation; and the calculation of the time of the applicability of a two-point reduction for completing a DMV-approved accident prevention course. In addition, the proposed rule would count all DMV points incurred from a single incident in calculating total Critical Driver points. These changes would be in accordance with Section 19-507.2 of the Administrative Code of the City of New York.

These rules are proposed pursuant to sections 1043 and 2303 of the Charter and section 19-503 of the Administrative Code of the City of New York. The proposed rules were not included in the TLC’s regulatory agenda for Fiscal Year 2010 because the need for the rule change was not anticipated at the time the agenda was published.

A public hearing on these proposed rules will be held by the TLC at its offices at 40 Rector Street, 5th Floor, New York, New York 10006 on Thursday, October 21, 2010 at 10:00 AM. Persons wishing to testify at the hearing may notify the TLC in advance, either in writing or by telephone to the TLC’s Office of Legal Affairs at the address and telephone given below. Any request for a sign language interpreter or other form of reasonable accommodation for a disability at the hearing must be submitted to the Office of Legal Affairs in writing or by telephone no later than October 18, 2010.

Written comments in connection with these proposed rules may be submitted through the NYC Rules website at www.nyc.gov/nycrules, or may be submitted to the Office of Legal Affairs and must be received no later than October 18, 2010 to:

Charles R. Fraser
Deputy Commissioner for Legal Affairs/General Counsel
Taxi and Limousine Commission
40 Rector Street, 5th Floor
New York, New York 10006
Telephone: 212-676-1135
Fax: 212-676-1102
Email: tlcrules@tlc.nyc.gov

Written comments and a summary of all comments received at the hearing will be available for public inspection at that office.

New material is underlined.

[Material inside brackets indicates deleted material.]

Section 1. It is proposed to amend section 4-27(a) of Title 35 of the Rules of the City of New York to read as follows:

§4-27 Special Driver Penalty Programs

- (a) *Critical Driver's Program* ("Points" in this Section refers to points assessed by the Department of Motor Vehicles). In addition to any other action the Commission might take, the following penalties will be enforced as part of the Commission's Critical Driver's Program:
- (1) *License Suspension.* If, within a 15-month period, a Driver accumulates six or more points on his or her driver's license (whether issued by New York or another state), the Commission will suspend the Driver's Taxicab Driver's License for 30 days.
 - (2) *License Revocation.* If, within a 15-month period, a Driver accumulates 10 or more points on his or her driver's license (whether issued by New York or another state), the Commission will revoke the Driver's Taxicab Driver's License.
 - (3) *Review of Driver Fitness.* The Commission can at any time review the fitness of a Driver to continue to be Licensed following any moving violation, accident, or other driving-related incident and can seek to impose other, additional, and/or more severe penalties or take any other action permitted under these Rules.
 - (4) *15-Month Period.* When determining whether a suspension or revocation is required based on the accumulation of points in a 15-month period, the Commission will count backwards 15 months from the date of the most recent violation carrying points that is cited in the summons issued under this section.
 - (5) *Date of Point Accumulation.* For the purpose of this rule, points assigned by the Department of Motor Vehicles for any violation will be counted as of the date the violation occurred.
 - (6) [*Multiple Points from a Single Incident.* For a Driver who has been found guilty of multiple violations arising from a single incident, the

Commission will consider the Driver guilty of the single violation with the highest point total for purposes of this section.

(7) *]Point Reduction for Voluntary Course Completion.*

- (i) Before suspending or revoking a Driver's License, the Commission will deduct two points from the total points of any Licensee who voluntarily attends and satisfactorily completes a motor vehicle accident prevention course approved by the [Commission] NYS DMV that appears on the Licensee's DMV driving record. Such point reduction will count only towards points accumulated by the Licensee as a result of violations that occurred within 15 months prior to the date of the completion of the course. In order for the motor vehicle accident prevention course to reduce the Licensee's Critical Driver's Program points and avoid suspension or revocation of the Driver's Taxicab Driver's License, the course must be satisfactorily completed prior to the issuance of a critical driver program summons. Completion of the motor vehicle accident prevention course after the issuance of a critical driver program summons will reduce the Licensee's Critical Driver's Program points only after the Licensee completes his or her suspension. If the Licensee's driver's license was issued by a state other than New York, the Licensee must submit a recent driving abstract from the state of licensure.
- (ii) The Driver must furnish the Commission with proof of when the course was taken and that the course was satisfactorily completed before the Commission will reduce the Driver's point total.
- (iii) If the Commission has already suspended or revoked the Driver's License, the point reduction will not change the Commission's decision.
- (iv) If the Driver completed the course on or after September 1, 1999, the Commission will not reduce total points more than once in any 18-month period.

Section 2. It is proposed to amend section 5-27(a) of Title 35 of the Rules of the City of New York to read as follows:

§5-27 Special Driver Penalty Programs

- (a) *Critical Driver's Program* ("Points" in this Section refers to points assessed by the Department of Motor Vehicles). In addition to any other action the Commission might take, the following penalties will be enforced as part of the Commission's Critical Driver's Program:
- (1) *License Suspension.* If, within a 15-month period, a Driver accumulates six or more points on his or her driver's license (whether issued by New York or another state), the Commission will suspend the Driver's For-Hire Driver's License for 30 days.
 - (2) *License Revocation.* If, within a 15-month period, a Driver accumulates 10 or more points on his or her driver's license (whether issued by New York or another state), the Commission will revoke the Driver's For-Hire Driver's License.
 - (3) *Review of Driver Fitness.* The Commission can at any time review the fitness of a Driver to continue to be Licensed following any moving violation, accident, or other driving-related incident and can seek to impose other, additional, and/or more severe penalties or take any other action permitted under these Rules.
 - (4) *15-Month Period.* When determining whether a suspension or revocation is required based on the accumulation of points in a 15-month period, the [The] Commission will calculate the 15-month period by counting backwards 15 months from the date of the most recent violation carrying points that is cited in the summons issued under this section.
 - (5) *Date of Point Accumulation.* For the purpose of this rule, points assigned by the Department of Motor Vehicles for any violation will be counted as of the date the violation occurred.
 - (6) *[Multiple Points from a Single Incident.* For a Driver who has been found guilty of multiple violations arising from a single incident, the Commission will consider the Driver guilty of the single violation with the highest point total for purposes of this section.
 - (7) *]Point Reduction for Voluntary Course Completion.*
 - (i) Before suspending or revoking a Driver's License, the Commission will deduct two points from the total points of any Licensee who voluntarily attends and satisfactorily completes a motor vehicle accident prevention course approved by the [Commission] NYS DMV that appears on the Licensee's DMV driving record. Such point reduction will count only towards

points accumulated by the Licensee as a result of violations that occurred within 15 months prior to the date of the completion of the course. In order for the motor vehicle accident prevention course to reduce the Licensee's Critical Driver's Program points and avoid suspension or revocation of the Driver's For-Hire Vehicle Driver's License, the course must be satisfactorily completed prior to the issuance of a critical driver program summons. Completion of the motor vehicle accident prevention course after the issuance of a critical driver program summons will reduce the Licensee's Critical Driver's Program points only after the Licensee completes his or her suspension. If the Licensee's driver's license was issued by a state other than New York, the Licensee must submit a recent driving abstract from the state of licensure.

- (ii) The Driver must furnish the Commission with proof of when the course was taken and that the course was satisfactorily completed before the Commission will reduce the Driver's point total.
- (iii) If the Commission has already suspended or revoked the Driver's License, the point reduction will not change the Commission's decision.
- (iv) If the Driver completed the course on or after September 1, 1999, the Commission will not reduce total points more than once in any 18-month period.

Section 3. It is proposed to amend section 6-13(b) of Title 35 of the Rules of the City of New York to read as follows:

§6-13 Comply with laws – Miscellaneous

* * *

(b) *Critical Driver's Program* ("Points" in this Section refers to points assessed by the Department of Motor Vehicles). In addition to any other action the Commission might take, the following penalties will be enforced as part of the Commission's Critical Driver's Program:

- (1) *License Suspension*. If, within a 15-month period, a Driver accumulates six or more points on his or her driver's license (whether issued by New York or another state), the Commission will suspend the Driver's Paratransit Driver's License for 30 days.

- (2) *License Revocation.* If, within a 15-month period, a Driver accumulates 10 or more points on his or her driver's license (whether issued by New York or another state), the Commission will revoke the Driver's Paratransit Driver's License.
- (3) *Review of Driver Fitness.* The Commission can at any time review the fitness of a Driver to continue to be licensed following any moving violation, accident, or other driving-related incident and can seek to impose other, additional, and/or more severe penalties or take any other action permitted under these Rules.
- (4) *15-Month Period.* When [calculating any] determining whether a suspension or revocation is required based on the accumulation of points in a 15-month period, the Commission will [use the relevant 15-month period that begins with] calculate the 15-month period by counting backwards 15 months from the date of the most recent violation carrying points that is cited in the summons issued under this section.
- (5) *Date of Point Accumulation.* [When points are assigned as a result of a violation, they will be counted as of the date of the violation.] For the purpose of this rule, points assigned by the Department of Motor Vehicles for any violation will be counted as of the date the violation occurred.
- (6) *[Multiple Points from a Single Incident.* A Driver can be fined points against his or her license for multiple violations arising from a single incident. For the purpose of calculating points that might lead to a License suspension or revocation, if a Driver has accumulated points for multiple violations arising from a single incident, the Commission will count the single violation with the highest point total.
- (7) *]Point Reduction for Voluntary Course Completion.*
- (i) Before suspending or revoking a Driver's License, the Commission will deduct two points from the total points of any Licensee who voluntarily attends and satisfactorily completes [an Approved Motor Vehicle Accident Prevention Course] a motor vehicle accident prevention course approved by the NYS DMV that appears on the Licensee's DMV driving record. Such point reduction will count only towards points accumulated by the Licensee as a result of violations that occurred within 15 months prior to the date of the completion of the course. In order for the motor vehicle accident prevention course to reduce the Licensee's Critical Driver's Program points and avoid suspension or revocation of the Driver's Paratransit Driver's License, the course must be satisfactorily completed prior to the issuance of a critical driver program summons. Completion of the motor vehicle

accident prevention course after the issuance of a critical driver program summons will reduce the Licensee's Critical Driver's Program points only after the Licensee completes his or her suspension. If the Licensee's driver's license was issued by a state other than New York, the Licensee must submit a recent driving abstract from the state of licensure.

- (ii) The Driver must [provide] furnish the Commission with proof that the course was satisfactorily completed before the Commission will reduce the Driver's point total.
- (iii) If the Commission has already suspended or revoked the Driver's License, the point reduction will not change the Commission's decision.
- (iv) [The] If the Driver completed the course on or after September 1, 1999, the Commission will not reduce the total points of any Driver more than once in any 18-month period.

Section 4. It is proposed to amend section 7-12(a) of Title 35 of the Rules of the City of New York to read as follows:

§7-12 Comply with Laws – Traffic Laws & Miscellaneous

- (a) Critical Driver's Program [(rules relating to the points)] ("Points" in this Section refers to points assessed by the Department of Motor Vehicles). In addition to any other action the Commission might take, the following penalties will be enforced as part of the Commission's Critical Driver's Program:
 - (1) *License Suspension.* If, within a 15-month period, a Driver accumulates six or more points on his or her driver's license (whether issued by New York or another state), the Commission will suspend the Driver's Commuter Van Driver's License for 30 days.
 - (2) *License Revocation.* If, within a 15-month period, a Driver accumulates 10 or more points on his or her driver's license (whether issued by New York or another state), the Commission will revoke the Driver's Commuter Van Driver's License.
 - (3) *Review of Driver Fitness.* The Commission can at any time review the fitness of a Driver to continue to be licensed following any moving violation, accident, or other driving-related incident and can seek to impose other, additional, and/or more severe penalties or take any other action permitted under these Rules.

- (4) *15-Month Period.* When determining whether a suspension or revocation is required based on the accumulation of points in a 15-month period, the Commission will count backwards 15 months from the date of the most recent violation carrying points that is cited in the summons issued under this section.
- (5) *Date of Point Accumulation.* [When points are assigned as a result of a violation, they will be counted as of the date of the violation.] For the purpose of this rule, points assigned by the Department of Motor Vehicles for any violation will be counted as of the date the violation occurred.
- (6) *[Multiple Points from a Single Incident.* A Driver can be fined points against his or her license for multiple violations arising from a single incident. For the purpose of calculating points that might lead to a License suspension or revocation, the Commission will count the single violation with the highest point total, if a Driver has accumulated points for multiple violations arising from a single incident.
- (7) *]Point Reduction for Voluntary Course Completion.*
- (i) Before suspending or revoking a Driver's License, the Commission will deduct two points from the total points of any Licensee who voluntarily attends and satisfactorily completes [an Approved Motor Vehicle Accident Prevention Course] a motor vehicle accident prevention course approved by the NYS DMV that appears on the Licensee's DMV driving record. Such point reduction will count only towards points accumulated by the Licensee as a result of violations that occurred within 15 months prior to the date of the completion of the course. In order for the motor vehicle accident prevention course to reduce the Licensee's Critical Driver's Program points and avoid suspension or revocation of the Driver's Commuter Van Driver's License, the course must be satisfactorily completed prior to the issuance of a critical driver program summons. Completion of the motor vehicle accident prevention course after the issuance of a critical driver program summons will reduce the Licensee's Critical Driver's Program points only after the Licensee completes his or her suspension. If the Licensee's driver's license was issued by a state other than New York, the Licensee must submit a recent driving abstract from the state of licensure.
- (ii) The Driver must furnish the Commission with proof that the course was satisfactorily completed before the Commission will reduce the Driver's point total;

- (iii) If the Commission has already suspended or revoked the Driver's License, the point reduction will not change the Commission's decision.
 - (iv) [The] If the Driver completed the course on or after September 1, 1999, the Commission will not reduce the total points of any Driver more than once in any 18-month period.
- [(8) Nothing in this section prevents the Commission from imposing additional or more severe penalties for these violations.]

Statement of Basis and Purpose of Proposed Rule

The Taxi and Limousine Commission proposes changes to its rules governing the Critical Driver's Program. The proposed rule would clarify the following: the calculation of the 15-month "look back" period for a driver's DMV record; the assignment of points as of the date of the DMV violation; and the calculation of the time of the applicability of a two-point reduction for completing a DMV-approved accident prevention course. In addition, the proposed rule would count all DMV points incurred from a single incident in calculating total Critical Driver points. These changes would be in accordance with Section 19-507.2 of the Administrative Code of the City of New York.

The purpose of the proposed rulemaking is to enhance and simplify the enforcement and adjudication of summonses issued in accordance with the Critical Driver's Program, and therefore to enhance that program's contribution to public safety. This rulemaking amends the version of the Commission's rules that becomes effective January 1, 2011.