



NEW YORK CITY TAXI & LIMOUSINE COMMISSION

Livery Drivers' Benefit Fund Rules

Proposed Rules

March 18, 2010

Workers' Compensation Overview

- Most drivers we regulate benefit from a statutory scheme to provide benefits to cover on the job injuries.
- Taxi Drivers are covered by workers' compensation insurance provided by medallion owners.

Overview (cont'd)

- Black Car and Luxury Limo Drivers also benefit, in a different way.
- The legislature passed a law (separate from workers' compensation) to cover these drivers
- Black Car Fund, funded by surcharge on rides, provides coverage

Livery Drivers are a special case

- Uncertain status of entitlement of livery drivers to workers' compensation coverage for on the job injuries
- Law appeared to mandate coverage but livery drivers in practice rarely held to be "employees"

Problem

- As a result, livery drivers have traditionally had a hard time getting workers' compensation benefits for injuries suffered while they are driving.

Old Workers' Comp Structure for Livery Drivers

- Vehicle owner was “employer” if driver found to be “employed”.
- Coverage for any work related injuries includes
 - Medical Costs
 - Loss of Earnings
 - Death Benefit
 - Disability for non-work related injuries

Problems with old approach

- Anecdotal evidence coverage is difficult to obtain and/or expensive
- Few drivers recover anything in practice because they are determined not to be employees eligible for coverage.

Livery Drivers Benefit Fund/ New Approach

- NYS has passed a law to create a new statutory scheme to provide coverage.
- The law creates the Livery Drivers' Benefit Fund to provide certain coverage.
- Dispatching Base is employer of drivers

New Approach/II

- Coverage provided by the Fund to Livery Drivers for
 - Injuries resulting from a crime
 - Loss of limbs, hand, finger, multiple toes, ear or nose
 - Paraplegia or quadriplegia
 - Total/permanent deafness or blindness
- Other, less serious injuries, not covered by the Fund

New Approach/III

Coverage by Fund also includes:

- Medical coverage for covered injuries
- Loss of earnings for covered injuries
- Death benefit

Fund covers less than traditional workers' compensation

- No Disability coverage (for non-work related injuries) provided at all.
- For less severe, non-covered injuries:
 - Drivers may make claims against the no-fault insurance coverage.
 - Claims can include medical costs and lost income

The Livery Drivers' Benefit Fund

- Will provide the limited statutory coverage to drivers of member bases.
- Coverage will be paid for by bases.
- Each base assessed upon number of affiliated vehicles.
- Livery Bases NOT joining the Fund MUST provide workers' compensation coverage to drivers.

TLC OBLIGATIONS

- Beginning 1/1/10 require each Livery Base, as a condition of licensure, to provide proof of either
 - Livery Fund membership or
 - Workers' Compensation Coverage for drivers.
- Provide Fund with information regarding vehicles affiliated with each Livery Base

Enforcement

- The statute contains strict penalties for matters such as failure of a base to pay assessments to the Fund or misrepresenting numbers of affiliated vehicles to reduce assessments
 - Penalties include fines, suspension, and revocation
 - Either or both of base license and Fund membership may be suspended/revoked.

TLC Enforcement

- Mandatory requirements:
- TLC must deny base licenses to applicants without either Fund membership or workers' comp coverage for drivers.

Enforcement (cont'd)

- Optional requirements:
- TLC has the option of enforcing base duties to the Fund, including
 - Failure of a base to pay its Fund assessment for coverage
 - Misrepresentations about numbers of affiliated vehicles
 - Attempts to coerce drivers and vehicle owners to assist with misrepresentations.

Enforcement (cont'd)

- The staff is recommending that the TLC Rules implement both the mandatory and optional components.
 - Advances goal of providing coverage to livery drivers
- The Fund and the Workers' Comp Board, which administers the Fund, will request assistance if desired and provide documentation of the violation

Current status

- Anticipate a hearing on the proposed rules in May.
- Licensing is already requiring livery bases applying for new and renewal license to provide proof of Fund membership OR workers' comp coverage for drivers.
- The Fund and the WC Board have served stop work notices on livery bases which have not joined the Fund and paid the first assessment.



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