

NEW YORK CITY TAXI AND LIMOUSINE COMMISSION

Notice of Promulgation of Rules

Notice is hereby given in accordance with Section 1043(b) of the Charter of the City of New York (“Charter”) that the Taxi and Limousine Commission (“TLC”) promulgates rules which amend the TLC current rules by deleting those related to the Driver Healthcare Fund (HCF).

These rules are promulgated pursuant to Sections 1043 and 2303 of the Charter and Section 19-503 of the Administrative Code of the City of New York.

These rules were published on January 25, 2016 for public comment in the City Record. On February 25, 2016, a public hearing on these rules was held by the TLC at its offices at 33 Beaver Street, 19th Floor, New York, New York. The rules were adopted by the Commission at a public meeting held on February 25, 2016. Pursuant to Section 1043(e)(1)(c) of the Charter, these rules will take effect 30 days after publication.

STATEMENT OF BASIS AND PURPOSE

These rules amend the TLC’s rules by deleting those related to the Driver Healthcare Fund (HCF). The TLC adopted rules that became effective on September 4, 2012 to allow Medallion Owners to deduct \$.06 per trip for all trips to fund driver healthcare services and disability coverage. On June 4, 2015 the New York Appellate Division issued a decision in *Ahmed, Delorbe, and Friendly v City of New York, et al.*, finding that the TLC had exceeded its authority in promulgating the HCF rules. The TLC is now repealing rules that provide for the collection of this HCF fee.

Specifically, the rules:

- Delete references in Chapter 58 to the \$.06 per trip deduction and remove the authority for medallion owners to withhold money for a driver health care and disability fund.
- Delete the requirement in Chapter 75 that a TPEP system capture the \$.06 per trip item.

New material is underlined.

[Material inside brackets indicates deleted material.]

Section 1. Items (A) and (B) of subparagraph (viii) of paragraph (5) of subdivision (c) of section 58-21 of Title 35 of the Rules of the City of New York are deleted in their entirety, and items (C) and (D) are renumbered items (A) and (B), to read as follows:

(viii) In addition to these charges, an Owner can deduct from credit card receipts payable to the Driver amounts collected by the T-PEP Provider, pursuant to the T-PEP Provider's authorization by the Commission, provided that

A. [such amounts are dedicated for the purpose of providing health care services and disability coverage for drivers;

B. such amounts do not exceed \$0.06 per trip

C.] such amounts are provided by rule of the Commission; and

[D.] B. such amounts are timely remitted to the Owner's TPEP Provider or other recipient as approved by the TLC.

§58-21(c)(5)(viii)[(D)] (B)	Fine: \$1,000 and suspension until compliance	Appearance REQUIRED
--------------------------------	---	---------------------

Section 2. Paragraphs (1) and (2) of subdivision (f) of section 58-21 of Title 35 of the Rules of the City of New York are amended to read as follows:

(1) For any lease of a Taxicab (vehicle and Medallion) under paragraph 58-21(c)(1) or 58-21(c)(2), an Owner (or Owner's Agent) must pay a Driver in cash, on a daily basis, the total amount of all non-cash payments, including E-Payments through TPEP (if any), made during the Driver's shift, less [the \$.06 per trip driver health surcharge described in paragraph 58-21(f)(5) and, on and after January 1, 2015,] the Taxicab Improvement Surcharge payable to the Taxicab Improvement Fund as set forth in section 58-16.

(2) For any lease not described in paragraph (1), an Owner (or Owner's Agent) must pay the Driver in cash, on no less than a weekly basis, the total amount of all non-cash payments, including E-Payments through TPEP (if any), made during that period, less [the \$.06 per trip driver health surcharge described in paragraph 58-23(f)(5) and, on and after January 1, 2015,] the Taxicab Improvement Surcharge payable to the Taxicab Improvement Fund as set forth in Section 57-16.

Section 3. The numerical designation of subparagraph (i) and subparagraphs (ii) and (iii) of paragraph (5) of subdivision (f) of section 58-21 of Title 35 of the Rules of the City of New York are deleted , to read as follows:

(5) An Owner can deduct from credit card receipts payable to the Driver amounts retained by or payable to the T-PEP Provider, pursuant to the T-PEP Provider's contract with the Commission, provided that [(i)]such amounts are provided for by contract between the T-PEP Provider and the Commission or by rule of the Commission[;

(ii) such amounts are dedicated for the purpose of providing healthcare services and disability coverage for drivers; and

(iii) such amounts do not exceed \$0.06 per trip].

Section 4. Item (E) of subparagraph (iii) of paragraph (2) of subdivision (a) of section 75-25 of Title 35 of the Rules of the City of New York is amended to read as follows:

(E) Only a single MTA tax[,], and a single Taxicab Improvement Surcharge[,], and a single \$.06 healthcare fee] are required to be captured by the TPEP for the trip, regardless of how many ways the total charges are split.

Section 5. Clause (IX) of item (C) of subparagraph (xii) of paragraph (2) of subdivision (a) of section 75-25 of Title 35 of the Rules of the City of New York, requiring that the TPEP system record the total Healthcare Fee collected for each trip, is deleted, and clauses (X) to (XIV) are renumbered as clauses (IX) to (XIII).

Section 6. Paragraph 2 of subdivision (q) of section 75-25 of Title 35 of the Rules of the City of New York, relating to the collection and remittance of the healthcare fee by TPEP providers, is REPEALED.