

NEW YORK CITY TAXI AND LIMOUSINE COMMISSION

Notice of Promulgation of Rules

Notice is hereby given in accordance with section 1043(e) of the Charter of the City of New York (“Charter”) that the Taxi and Limousine Commission (“TLC”) promulgates rules governing paratransit vehicles.

These rules are promulgated pursuant to sections 1043 and 2303(b)(11) of the Charter and section 19-503 of the Administrative Code of the City of New York.

These rules were published on June 15, 2007, for public comment in The City Record. On August 9, 2007, a public hearing on such proposed rules was held by the TLC at its offices at 40 Rector Street, 5th Floor, New York, New York 10006, these rules were voted on and passed. Pursuant to section 1043(e)(1)(c) of the Charter, these rules will take effect 30 days following the publication in The City Record.

New material is underlined.

[Material inside brackets indicates deleted material.]

Section 1. Section 4-01 of chapter 4 of Title 35 of the Rules of the City of New York is amended to read as follows:

§4-01 **Definitions.**

Applicant. An applicant is an individual applying for an original or renewal license for a paratransit vehicle and/or to operate such vehicle and/or to operate a paratransit base.

Base. [Base] A base is [the place of business] a central facility approved [and licensed] by the Commission [for the purpose of dispatching] which manages, organizes and/or dispatches a licensed [paratransit] vehicle or vehicles. This location should also be the official location on record with the New York State Department of Transportation.

Base Owner. A base owner is any individual, partnership or corporation licensed by the Commission to own and operate a base.

[**Call sheet.** A call sheet is a trip record.]

Chauffeur’s license. Chauffeur’s license means a valid New York State Chauffeur’s license or its equivalent from another state of which the licensee is a resident.

Commission. Commission shall refer to the New York City Taxi and Limousine Commission.

Common carrier. A common carrier is a vehicle licensed by the state for public use in the conveyance of persons or property within New York State.

Dispatch of a paratransit vehicle. Dispatch of a paratransit vehicle is a dispatcher's instruction to a paratransit driver (usually by radio) directing the driver to provide service to a prospective passenger on a prearranged basis.

Driver. A driver is a person licensed by the Commission to drive a [wheelchair accessible van (]paratransit vehicle[) or ambulette] in the City of New York.

Fastening devices. A fastening device is a device, as approved by the New York State Department of Transportation, which will securely hold wheelchairs in position in a paratransit vehicle and will not cause a tripping hazard.

Electronic Trip Record System. The "electronic trip record system" is hardware and software that collects and stores the electronic trip record data required by section 4-09(gg). The specific locations and times of pick-up and drop-off and any other data that may be collected in the vehicle must be done contemporaneously with the trip.

Lease card. A lease card is a card issued to a lessee of a paratransit vehicle by the Commission, setting forth the name and address of the lessee, the period of the lease and any other information prescribed by the Commission.

Licensed vehicle. A licensed vehicle is a paratransit vehicle or ambulette authorized by the Commission to transport, by prearrangement and for hire, any person with a disability.

Mailing address. A [Mailing] mailing address is the address designated by the paratransit vehicle owner, base owner or driver for the receipt of all notices and correspondence from the Commission and for the receipt of service of summonses by the Commission. In the case of the base owner, the mailing address shall be the base address. In the case of the driver, it shall be the home address of the driver. In the case of the paratransit vehicle owner, [An] an individual shall designate the home address of such individual or, if a partnership, of one of the partners [of such individual.] and [A] a corporation shall designate the address of the secretary of the corporation. However, the licensee may also designate a U.S. post office box number as a mailing address. Any notice from the Commission shall be deemed sufficient if sent to the address last furnished to the Commission by the paratransit vehicle owner, base owner or driver.

[Operator. An operator is the driver of a paratransit vehicle.]

Owner. An owner is any individual, partnership, association, organization (including non-profit), or corporation licensed by the Commission to own a paratransit vehicle. Accordingly, under these rules, the term includes an agent or employee of such owner having authority to act on behalf of the owner, including a lessee of a paratransit vehicle.

Paratransit driver's license. A paratransit driver's license is a license issued by the Commission to persons who meet Commission qualifications as paratransit vehicle drivers.

Paratransit service. A paratransit service is a transportation service for persons with disabilities, including all ambulette services.

Paratransit vehicle. A paratransit vehicle is a wheelchair accessible van. For the purposes of these rules, this term shall include all ambulettes (whether wheelchair accessible or not).

Paratransit vehicle [identification card (also known as a paratransit identification card.)] license. A [Paratransit] paratransit vehicle [identification card] license is a [card] license issued by the Commission to an owner of a [licensed] paratransit vehicle which displays the vehicle's license number and other data prescribed by the Commission which serves as evidence that the vehicle is licensed to operate in New York City.

Passenger. A passenger is any individual carried in a paratransit vehicle for travel for hire to a given destination.

Person with a disability. A person with a disability is an individual with a physical or mental impairment, including any person with a mobility impairment who uses a wheelchair, three-wheeled motorized scooter or other mobility aid, or is semi-ambulatory, and who cannot board, ride or disembark from a vehicle without the assistance of a wheelchair lift or other boarding assistance device.

Service Animal. A service animal is a guide dog, signal dog or any other animal trained specifically to work or to perform tasks for an individual with a disability, including, but not limited to, guiding individuals with visual impairments, alerting individuals with hearing impairments to intruders or sounds, providing minimal protection or rescue work, pulling a wheelchair or retrieving dropped items.

[Transportation service for people with disabilities (also known as paratransit or ambulette service). A transportation service for people with disabilities is a non-profit organization or other provider of transportation via one or more vehicles for hire which transports persons with disabilities in the city by means of a vehicle(s) which contain wheelchair accessible devices or other devices or alterations designed to permit access to and the transportation of a person with a disability.]

Trip Record. A [Trip] trip record, also known as a trip sheet, is a written document or data in electronic form [also known as a trip sheet, or call sheet,] setting forth or containing the origin and destination of each trip as well as other information required by the Commission[, which,] pursuant to section 4-09(gg) of this chapter. Written trip records, when permitted by section 4-10(m) of this chapter, must be carried by the paratransit vehicle driver.

Weapon. A weapon is any instrument or thing whether real or simulated, capable of inflicting or threatening bodily harm.

Wheelchair accessible van (also known as paratransit vehicle). A wheelchair accessible van is any motor vehicle, equipped with a hydraulic lift or ramp(s) designed for the purpose of transporting persons who use wheelchairs or containing any other physical devices designed to permit access to and the transportation of a person with a disability.

Section 2. Paragraph (a)(10) and subdivision (b) of Section 4-03 of Chapter 4 of Title 35 of the Rules of the City of New York are amended, and a new paragraph (a)(11) is added, to read as follows:

§4-03 **Paratransit Driver's License.**

(a) An applicant for a paratransit driver's license must be:

. . . .

(10) familiar with New York City geography, streets and traffic regulations, as well as New York State Vehicle and Traffic Law;

(11) qualified pursuant to Article 19-A of the New York State Vehicle and Traffic Law to drive a paratransit vehicle.

(b) A Commission application for a paratransit driver's license must be signed and filed by the applicant with the Commission. An applicant for a [paratransit operator's] driver's license shall agree that service of any paper, notice, letter, summons, complaint or legal process of any kind or nature may be made by the City of New York, or any department thereof, upon the person to whom the license is issued by leaving a copy of any such paper, notice, letter, summons, complaint or legal process with any member of his or her family or other person with whom he or she may reside at the address listed as a mailing address in his or her application.

Section 3. The title of Section 4-04 of chapter 4 of Title 35 of the Rules of the City of New York and paragraph (b)(5) and subdivisions (d), (i) and (k) of such section are amended to read as follows:

§4-04 **Paratransit Vehicle Licensing.**

(b) The applicant must also:

. . . .

(5) provide the certificate of title or a copy thereof and the certificate of registration, both of which must be in the applicant's name unless title is retained by a lessor or conditional vendor; provided, however, in addition to the terms set forth in this paragraph (b)(5), on and after January 1, 2008, the applicant must provide (i) the certificate of title or a copy thereof and (ii) the certificate of registration that evidences that the paratransit vehicle is of a model year that is not excluded by section 4-18 of this chapter and will not be required to be retired prior to the expiration of the two-year term of licensing.

(d) If the paratransit vehicle is leased, a copy of the leasing agreement must be filed with the license application.

. . . .

(i) The Commission may deny [a] an [paratransit vehicle] owner's renewal application or suspend or revoke [his] the owner's paratransit vehicle license should the Commission become aware of information that the owner no longer meets the requirements for a paratransit vehicle owner's license.

. . . .

(k) If an application for a paratransit vehicle license or its renewal is denied, the applicant or owner shall be entitled to a hearing before the Commission at which [he] the applicant or owner may be represented by an attorney or by a non-attorney representative. However, the Commission may, for cause, deny a non-attorney representative the opportunity to appear at such hearing.

Section 4. Subdivisions (a) and (d) and paragraph (e)(3) of Section 4-05 of Chapter 4 of Title 35 of the Rules of the City of New York are amended and new subdivision (h) is added, to read as follows:

§4-05 Base License.

(a) The base must be located on commercial property[,] or within a zone which permits a base operation, unless there are four vehicles or less in which case the base may be maintained at the [owners] base owner's residence.

. . . .

(d) The base must maintain records of all paratransit vehicles dispatched.

(e) The applicant for the base license must complete and file the required Commission application form and also submit:

. . . .

(3) if the base owner is a partnership, a copy of the partnership agreement if such agreement exists;

. . . .

(h) The Commission may deny a base owner’s renewal application or suspend or revoke the base owner’s license should the Commission become aware of information that the base owner no longer meets the requirements for a base license.

Section 5. Subdivisions (a), (c), (h), (l), (m), (p), (r), (s) and (t) and paragraphs (d)(1) and (d)(2) of Section 4-06 of Chapter 4 of Title 35 of the Rules of the City of New York are amended to read as follows:

§4-06 Paratransit Driver’s Responsibility to the Commission.

	<u>Penalty</u>
(a) A [paratransit] driver shall answer and comply as directed with all questions, communications, directives, restrictions and summonses from the Taxi and Limousine Commission or its representatives. A driver shall produce his <u>or her</u> paratransit driver’s license, chauffeur’s license, trip records or any other documents when required by the Commission.	\$200 and suspension until compliance. Personal Appearance Required.
. . . .	
(c) [An operator] <u>A driver</u> of a New York City paratransit vehicle for hire must be duly licensed as a [paratransit] driver by the Commission.	\$100 – 1 st Offense \$250 – 2 nd Offense \$350 – 3 rd Offense \$500 - 4 th or more offenses w/in 12 months - Personal Appearance Required.
(d) A driver shall not operate a paratransit vehicle unless:	(1) \$100 Personal Appearance Required.
(1) he or she possesses a paratransit driver’s [identification card] <u>license</u> ;	
(2) he or she possesses a valid New York State	(2) \$100-\$350 and/or

chauffeur's license or appropriate valid license of similar class of the state of which he or she is a resident;

suspension [for the same period of time imposed by the issuing Department of Motor Vehicles] up to 30 days unless exempted by the Commission. Personal Appearance Required.

. . . .

(h) A driver shall safeguard his or her paratransit driver's license and the paratransit vehicle [identification card] license. Locking [his] the paratransit vehicle with the paratransit driver's license and paratransit [identification card] vehicle license therein during his or her shift shall be deemed compliance with this rule. However, leaving [it] either or both of them in the paratransit vehicle while another possesses the paratransit vehicle is not deemed compliance.

\$25 Personal Appearance Not Required.

. . . .

(l) A driver's photograph on his or her [Paratransit Driver's Identification Card] paratransit driver's license shall accurately reflect his or her appearance, including such details as the wearing of glasses, hearing aid, mustache, beard, etc. Should the driver's appearance change, he or she must, without delay, submit four (4) new photographs to the Commission, and a new [Paratransit Driver's Identification Card] paratransit driver's license shall be issued.

\$25 Personal Appearance Not Required.

(m) A driver shall not allow anyone to use his or her [Paratransit Driver's] paratransit driver's license and he or she shall not use another's [Paratransit Driver's] paratransit driver's license.

\$250 Personal Appearance Required.

. . . .

(p) A [paratransit] driver shall not operate a paratransit vehicle or use it at any time to carry passengers unless it is in safe operating condition, and it meets

\$50-\$150 Personal Appearance Required.

and is operated under all the requirements of New York State and New York City vehicle and traffic laws, and all Commission requirements [under these rules] set forth in Chapter 4 of Title 35 of the Rules of the City of New York.

-
- | | |
|--|--|
| <p>(r) The following items must be present in the paratransit vehicle prior to its operation:</p> <ul style="list-style-type: none"> (1) the driver's paratransit driver's license; (2) the certification of registration or copy thereof; (3) the <u>paratransit vehicle</u> [identification card] <u>license</u> or copy thereof; (4) an insurance card or copy thereof; (5) the lease card, if any, or copy thereof; (6) the <u>written</u> trip record [("call sheet")]; (7) any notices required to be posted in the <u>paratransit</u> vehicle. (8) <u>Notwithstanding any provision of this subdivision and any other provision of these rules, on and after July 1, 2008, an electronic trip record system required by section 4-10(n), in lieu of the written trip record set forth in section 4-06(r)(6); however, if such system malfunctions, the malfunction is timely reported and the paratransit vehicle is operated for hire not more than three (3) business days before being repaired a written trip record shall be used.</u> | <p>(1-7) \$15 each violation of this rule[; however no violation of this rule shall exceed \$30].
Personal Appearance Not Required.</p> <p>(8) \$250 Personal Appearance Required.</p> |
| <p>(s) A driver shall maintain [a legible trip record in the paratransit vehicle] <u>all written trip records</u> as follows:</p> <ul style="list-style-type: none"> (1) all entries must be in ink and the trip record must be current; (2) at the beginning of each workshift the driver shall sign and certify on the trip record that the paratransit vehicle and its equipment are in good working condition and that all required items are present. One entry for an owner/driver will be deemed sufficient. (3) [the number of passengers and designate whether a passenger is in a wheelchair, ambulatory, or ambulatory but requiring assistance; (4) the time and place of each passenger pickup | <p>[\$15] <u>\$50</u> for each violation of this rule; however no fine for a violation of this rule shall exceed [\$30] <u>\$100 for each vehicle stop.</u>
Appearance Not Required.</p> |

- and arrival;
- (5) if a fare was paid to a driver, the amount and by whom should be entered as well;
- (6) any other entries required by the Commission;] the trip record shall contain the trip record entries required by section 4-09(gg) of this chapter.
- [(7) the trip record shall be maintained by the owner.]

Note: The Commission has discretionary power to waive any of these requirements upon showing by the [paratransit vehicle] owner that the required information is maintained and is readily accessible to the Commission.

Notwithstanding the provisions of this subdivision and any other provision of these rules, the driver shall make all system entries that must be collected contemporaneously with the trip, such as the location and date and time of pick-up and drop-off. All other entries required by section 4-09(gg) may be provided by the dispatching base.

- | | |
|--|---|
| <p>(t) [A] <u>At any time, a driver shall correct in a written trip record wrong entries by drawing a single line through the incorrect written entry and initialing the correction.</u> [also] <u>Also, a driver shall not make erasures or obliterations [n]or leave any blank lines between entries on a written trip record.</u> <u>Electronic trip record data collected in the paratransit vehicle shall not be erased, deleted, altered, changed or obliterated. A driver shall report all necessary corrections to the base owner.</u></p> | <p>\$30 Personal Appearance Not Required.</p> |
|--|---|

Section 6. Paragraph (a)(4) and subdivision (d) of Section 4-07 of Chapter 4 of Title 35 of the Rules of the City of New York are amended and a new subdivision (k) is added, to read as follows:

§4-07 Driver’s Responsibilities When Operating the Vehicle.

Penalty

- | | |
|---|---|
| <p>(a)</p> <p>(4) A [paratransit] driver shall immediately report to the owner [of the vehicle] any accidents in which [he] <u>the driver</u> and the paratransit vehicle are</p> | <p>(4) \$25-\$250 and/or suspension up to 30 days. Personal</p> |
|---|---|

involved and shall notify his or her employer of any traffic infraction, accident or conviction(s) as required in section 509-i of Article 19A of the New York State Vehicle and Traffic Law. Appearance Required.

(d) A driver shall not permit any individual who is not currently licensed by the Taxi and Limousine Commission to operate the vehicle in which he or she is dispatched, unless directed to do so by the owner or his or her agents. See §[4-14] 4-13 Personal Appearance Required.

(k) A driver shall use written trip records while the electronic trip record system is not functioning and the vehicle is permitted to operate. \$250 Personal Appearance Not Required.

Section 7. Paragraph (a)(2), subdivisions (b), (c), (g) and (h), paragraph (i)(1) and subdivision (n) of section 4-08 of chapter 4 of Title 35 of the Rules of the City of New York are amended to read as follows:

§4-08 Driver’s Responsibilities to the Passengers.

	<u>Penalty</u>
(a)	
(2) A driver shall comply with all lawful and reasonable requests of passengers, including but not limited to giving upon request his <u>or her</u> name, his <u>or her</u> paratransit driver’s [identification card] <u>license</u> number and the paratransit vehicle’s license number.	(2) \$50-\$100 Personal Appearance Required.
(b) A driver shall not threaten, harass or abuse any passenger, Commission representative, or any other person while performing his <u>or her</u> duties and responsibilities as a [paratransit] driver. A [paratransit] driver shall not distract or attempt to distract a service animal that is accompanying a person with a disability.	\$50-\$350 and/or suspension up to 30 days Personal Appearance Required.
(c) A driver shall not use or attempt to use any physical force against a passenger, Commission representative	\$25-\$350 and/or suspension up to

or any other person[,] while performing his or her duties and responsibilities as a [paratransit] driver. A [paratransit] driver shall not harm or use physical force against or attempt to harm or to use physical force against a service animal that is accompanying a person with a disability.

30 days or possible [Revocation] revocation (OATH) Personal Appearance Required.

. . . .

(g) A driver shall not refuse, by words, gestures or any other means, without justifiable grounds as set forth in [§] section 4-09(h) herein to provide transportation, when dispatched, for a person who has prearranged the trip and the destination is within the City of New York. This includes a passenger accompanied by a service animal.

See §[4-14] 4-13 Personal Appearance Required.

(h) The following are justifiable grounds for conduct otherwise prohibited under [§] section 4-09(g) of this chapter:

No penalty applicable.

. . . .

(2) the passenger is intoxicated or disorderly. Provided, however, that a [paratransit] driver shall not refuse to provide service to a person with a disability solely because such person's disability results in an appearance or involuntary behavior that may offend, annoy, or inconvenience the [paratransit] driver or other employees of the paratransit service.

(i)(1) A driver shall not refuse to transport a passenger's wheelchair, crutches, or other property.

(1) See §[4-14] 4-13 Personal Appearance Required.

. . . .

(n) A driver shall not charge or attempt to charge a fare above the approved rate of fare established by the [vehicle] owner and filed with the Commission. A driver shall not impose or attempt to impose any additional charge for transporting a person with a disability or a wheelchair or other mobility aid.

See §[4-14] 4-13 Personal Appearance Required.

Section 7. The title and subdivisions (a), (b), (c), (d), (e), (f), (g), (h), (i) and (j), paragraph (k)(1), subdivisions (l), (m), (n), (o), (p), (r), (s), (t), (v), (w), (x), (y), (aa), (bb), (cc), (ff), (gg) and (hh), paragraph (ii)(1), and subdivisions (jj), (kk), (ll) and (mm) of Section 4-09 of Chapter 4 of Title 35 of the Rules of the City of New York are amended and a new introductory paragraph, paragraph (k)(2) and subdivision (nn) are added, to read as follows:

§4-09 Paratransit Vehicle Owner’s and Base Owner’s [Responsibility] Responsibilities to the Commission.

	Penalty
<u>An owner and a base owner shall each be separately responsible for compliance with and liable for violations of subdivisions (a), (b), (c) and (d) and paragraph (k)(2):</u>	
(a) An owner shall not [operate,] <u>allow to be dispatched, a base owner shall not dispatch [or] and neither shall</u> permit the operation of a paratransit vehicle for hire that is <u>not</u> currently licensed by the Commission as a paratransit vehicle.	See §[4-14] 4-13 Personal Appearance Required.
(b) An owner shall only <u>allow a paratransit vehicle to be dispatched and a base owner shall only</u> dispatch a [paratransit] driver with a current paratransit driver’s license.	See §[4-14] 4-13 Personal Appearance Required.
(c) An owner shall not knowingly [employ as] <u>permit to operate and a base owner shall not dispatch</u> a driver[,any person whose] <u>who does not have a current and valid [paratransit driver’s or] state driver’s license [is suspended or revoked] and neither shall employ a driver without complying with qualification procedures set forth in Section 509-d of Article 19-A of the New York State Vehicle and Traffic Law.</u>	See §[4-14] 4-13 Personal Appearance Required.
(d) An owner shall <u>allow to be dispatched and a base owner shall</u> dispatch a paratransit vehicle only from a [place of business] <u>base</u> currently [licensed] <u>approved</u> by the Commission [as a base], unless exempted by the [Commission] <u>New York State Department of Transportation.</u>	\$150 Personal Appearance Not Required.
(e) [An] <u>A base</u> owner must notify and get prior approval from the Commission before [he] <u>the base owner</u> transfers, sells or assigns the base to another. The prospective new <u>base</u> owner must file [a] <u>the appropriate</u> base application form with the Commission.	\$150 Personal Appearance Not Required.

Should the Commission approve the sale of a base to another, the Commission will permit the transfer of the entire fleet to the new base as long as the vehicles meet the age/retirement requirements set forth in section 4-18 of this chapter and the owner shall pay the paratransit affiliation fee to the TLC, if any is required.

- | | |
|---|---|
| (f) An owner <u>and a base owner</u> shall report any pertinent changes, including [a change in the base address or garage, or] any changes regarding finances, ownership or title and registration, <u>and for a base owner, a change in the base address,</u> to the Commission within 72 hours. (Any notice or summons from the [Taxi and Limousine] Commission shall be deemed sufficient if sent to the address last furnished by the owner <u>and the base owner, respectively.</u>) | \$50 Personal Appearance
Not Required. |
| (g) [An] <u>A base</u> owner shall maintain [outside advertising] <u>signage</u> at the base, [by] stating the [business] <u>base</u> name and indicating to the public that it is a [paratransit] base. | \$50 Personal Appearance
Not Required. |
| (h) An owner without a current paratransit vehicle license shall not advertise or hold [himself] <u>the owner</u> out as “having Paratransit Service” or comparable designation. | See §[4-14] <u>4-13</u>
Personal Appearance
Required. |
| (i) [An] <u>A base</u> owner shall not dispatch a paratransit vehicle unless the rate of fares for such paratransit vehicle has been filed with the Commission including minimum fare, different fares for different types of <u>paratransit</u> services, portal time, tolls and extra charges, if any. | \$50 Personal Appearance
Not Required. |
| (j) [An] <u>A base</u> owner shall file with the Commission <u>annually or whenever there is</u> any change, [in] the <u>schedule of the</u> rate of fare at least ten (10) days prior to the effective date. | \$50 Personal Appearance
Not Required. |
| (k) (1) An owner shall comply with the Commission’s Paratransit Vehicle Specifications [, the Markings specifications for Paratransit Vehicles,] and all other pertinent laws, rules or regulations governing [paratransit vehicle] owners.
<u>(2) An owner and a base owner shall comply with the Markings Specifications for paratransit vehicles.</u> | \$50 Personal Appearance
Not Required. |
| (l) [An] <u>A base</u> owner operating a two-way radio service | \$50-\$250 Personal |

- | | |
|---|---|
| shall instruct the [dispatchers,] drivers and other employees on the rules of the Federal Communications Commission. | Appearance Required. |
| (m) An owner <u>and a base owner</u> shall <u>each</u> cooperate with all Commission enforcement officers and authorized representatives and shall comply with all their reasonable requests, including, but not limited to giving, upon request, [his] <u>the owner's or the base owner's name, the base license number and trip records, the paratransit vehicle license number and, for an owner [his] the owner's paratransit vehicle [identification card] license, and for a base owner the base license, [trip records]</u> and any other documents required to be maintained by the owner <u>and base owner</u> . | \$15-\$150
Personal Appearance Required. |
| (n) An owner, [or] applicant for a <u>paratransit vehicle license, [or] a base owner, or applicant for a base license</u> shall not offer or give any gift or gratuity to any employee, representative or member of the Commission, or any public servant[, and shall immediately report to the Inspector General of the Commission any request or demand for any gift or gratuity by any employee, representative or member of the Commission or any public servant]. | \$1,000 up to [Revocation] <u>revocation</u>
Personal Appearance Required. |
| (o) An owner <u>or a base owner</u> shall immediately report to the Commission any request or demand for a gift, [or] gratuity, or thing of value from [him] <u>the owner or the base owner</u> or a representative by any Commission member, employee, representative or any public servant. | \$1,000 up to [Revocation] <u>revocation</u>
Personal Appearance Required. |
| (p) An owner <u>or a base owner</u> shall not commit or attempt to commit, alone or in concert with another, any act of fraud, misrepresentation or larceny, perform any willful act of omission or commission which is against the best interests of the public <u>while performing [his] the owner's or base owner's respective duties and responsibilities as an owner or base owner</u> . | \$25-\$350 and/or suspension up to 30 days. Personal Appearance Required. |
| | |
| (r) An owner <u>or a base owner</u> , including a member | \$50-\$250 |

<p>of a partnership or any officer or shareholder of a corporation shall notify the Commission[,] within fifteen (15) days if he <u>or she</u> is convicted of a crime, and he <u>or she</u> shall deliver to the Commission a certified copy of the certificate of disposition issued by the court clerk within fifteen (15) days of [sentencing] <u>the disposition</u>.</p>	<p>Personal Appearance Required.</p>
<p>(s) An owner <u>and a base owner</u> shall promptly answer and comply with all communications, directives, restrictions and summonses <u>to each of them, respectively</u>, from the Commission or its representatives.</p>	<p>\$200 and suspension until compliance. Personal Appearance Required.</p>
<p>(t) [An] <u>A base owner</u> shall be responsible for bringing to the attention of drivers and other employees, all rules <u>governing the conduct of drivers while performing their duty as drivers</u> and amendments thereof, and any other notices from the [Taxi and Limousine] Commission. Also, a <u>base owner</u> [an up-to-date copy of these rules] shall be [kept] <u>responsible for maintaining</u> at the [Paratransit Service Base] <u>base a current copy of the Commission rules</u> for the information of drivers and employees.</p>	<p>\$50 Personal Appearance Not Required.</p>
<p>. . . .</p>	
<p>(v) An owner shall surrender [his] <u>the owner's paratransit vehicle [identification] license</u> to the Commission within forty-eight (48) hours, should [his] <u>such</u> license be suspended or revoked.</p>	<p>\$100 Personal Appearance Not Required.</p>
<p>(w) An owner shall not make any unauthorized entry on a paratransit vehicle [identification card] <u>license</u> [nor shall he] <u>or</u> change, deface, conceal, obliterate or render unreadable any entry thereon.</p>	<p>See §[4-14] <u>4-13</u> Personal Appearance Required.</p>
<p>(x) An owner shall immediately surrender an unreadable <u>paratransit vehicle [identification card] license</u> to the Commission and will obtain a legible replacement.</p>	<p>\$25 Personal Appearance Not Required.</p>
<p>(y) An owner shall notify the Commission and the Police Department within forty-eight (48) hours exclusive of weekends and holidays of the theft, loss or</p>	<p>\$50 Personal Appearance Not Required.</p>

destruction of a paratransit vehicle [identification card] license or New York State license plates. [He] The owner also shall furnish such affidavit or information as may be required including the police receipt number and a substitute paratransit vehicle [identification card] license will be issued by the Commission.

. . . .

(aa) An owner or a base owner shall submit an application for [his] the owner's or the base owner's respective license prior to the expiration date of the license, unless [his] the time to do so is extended by the Commission. \$25 Personal Appearance Not Required.

(bb) [An] A base owner shall only authorize [his] the drivers the base owner dispatches to pick up passengers with [his] a paratransit vehicle on a prearrangement basis[,] and [he] shall not allow them to solicit or respond to hails. See §[4-14] 4-13 Personal Appearance Required.

(cc) [An] A base owner shall not require a driver to operate one or more paratransit vehicles more than twelve (12) consecutive hours[.]; however, if a driver has accepted a passenger prior to the conclusion of the twelfth hour he or she may continue providing service to that passenger, if the driver is alert enough to not reasonably endanger himself, herself or others. \$50 Personal Appearance Not Required.

. . . .

(ff) An owner shall surrender [his] the owner's paratransit vehicle [identification card] license to the Commission prior to or on the termination date of [his] the liability insurance, unless [he] the owner obtains new insurance which is effective on the termination date of the old policy. \$100 Personal Appearance Not Required.

(gg) An owner or [his] the owner's specified agent shall only [dispatch] allow a paratransit vehicle to be dispatched after signing [his] the owner's or agent's name to the written trip record [and making the following entries in ink at the beginning of every workshift: [\$15] \$50 for each violation of this rule; however no violation of this rule shall exceed [\$30] \$100 for each

(1) the driver's name and paratransit vehicle

- driver's license number;
- (2) the state registration plate number and the license number of the paratransit vehicle;
- (3) the dispatch date and time, and the name, address and destination of each passenger to be picked up, and the suggested order and schedule of pick up;
- (4) certification that the paratransit vehicle and its equipment are in good working condition and that the items listed in §4-10(m) are present in the vehicle. An entry reading: "Condition of vehicle and its equipment satisfactory," followed by the owner's or agent's signature indicating that the driver's entries have been examined].

vehicle stop.
Personal
Appearance Not
Required.

All trip records shall contain the following information:

- (1) the driver's paratransit driver's license number;
- (2) the paratransit vehicle's state license plate number;
- (3) the date and time of pick-up of passengers;
- (4) the date and time of drop-off of passengers;
- (5) the locations of pick-ups and drop-offs;
- (6) any other entries required by the Commission and local, state or federal law.

(hh) [The] When using written trip records the owner or [his] the owner's agent shall [take possession of and] examine the trip record, and shall enter, in ink, the date and time at the end of the driver's workshift [and]. The owner or owner's agent shall also enter and sign a statement [followed by the owner's or agent's signature] indicating that the driver's entries have been examined.

\$25 Personal
Appearance
Not Required.

(ii) (1) [Owner] The owner shall correct wrong entries on a written trip record or other written records which [he] the owner is required to maintain by drawing a single line through the incorrect entry and initialing the correction. Also, an owner shall not make erasures or obliterations [n]or omit any essential information. On and after July 1, 2008, the owner and base owner shall make all necessary correction entries and addition entries that need to be made to the electronic trip record. The electronic trip record data collected in the paratransit vehicle shall not be erased, deleted, altered, changed or obliterated.

(1) \$30
Personal
Appearance
Not Required.

- (jj) An owner shall maintain and make available for inspection [,]complete financial and other operational records for a period of three (3) years[;], [Including] including the following records:
- (1) [the driver's trip records;
 - (2) any workers' compensation insurance coverage;
 - (3)] vehicle liability insurance coverage; and
 - ([4]2) any other documents specifically prepared in conjunction with the operation of a paratransit service.
- A base shall maintain and make available for Commission inspection complete financial and other operational records for a period of three (3) years, including the following:
- (1) the driver's trip records;
 - (2) any workers' compensation insurance coverage; and
 - (3) any other documents created or maintained in conjunction with the operation of a base.
- (kk) An owner shall make any records which the owner is required to maintain, and a base owner shall make any records which the base is required to maintain, or photocopies thereof, available to a driver should a driver be required to present such documents to the Commission or any other governmental agency.
- (ll) (1) [An] A base owner shall comply with all provisions of the New York State Workers' Compensation Law and regulations promulgated thereunder with respect to the provision of coverage and benefits to eligible persons.
- (mm) (1) [an]An owner and a base owner shall each maintain on file with the Commission a current telephone number (which must be connected to an answering
- \$50 for violation of each subdivision [thereof] hereof.
Personal Appearance Not Required.
- \$50 Personal Appearance Not Required.
- \$25 for each day of non-compliance and either suspension until compliance or license revocation.
Personal Appearance Required.
- \$100 Personal Appearance Not Required.

machine or recording device), pager number, answering service number or similar means of telephone contact, so that the owner and base owner may each be reached by the Commission on a twenty-four hour basis.

(2) An owner and a base owner must each respond to any telephone or pager contact from the Commission within forty-eight hours, seven days a week. \$500 Personal Appearance Not Required.

(nn) On July 1, 2008, and thereafter, owners and base owners shall transmit electronically on a monthly basis to the Commission the electronic trip record data required by section 4-09(gg).

For a violation that occurs on or before December 31, 2008, \$250; otherwise \$250 and suspension until compliance.

Personal Appearance Not Required.

Section 8. The title and subdivisions (b), (c), (i), (j), (k), (l) and (m) of Section 4-10 of Chapter 4 of Title 35 of the Rules of the City of New York are amended and a new introductory paragraph and new subdivisions (n), (o) and (p) are added, to read as follows:

§4-10 Owner's and Base's Owner's [Responsibility] Responsibilities for Paratransit Vehicle and Equipment.

	<u>Penalty</u>
<u>An owner and a base owner shall be separately responsible for compliance with and liable for violations of subdivisions (j), (k), (l) and (m) of this section.</u>	
(b) [An] <u>A base owner</u> shall only dispatch a paratransit vehicle after [he, she or it] <u>the base owner</u> inspects and reasonably determines that all equipment, including brakes, tires, lights, signals, wheelchair ramps, fastening devices, and heating and ventilation units are in good working order and meet all requirements of the New York State Vehicle and Traffic Law and these Commission Rules. The owner shall be responsible for all repairs.	\$50-\$500 Personal Appearance Not Required.

- (c) An owner shall only [dispatch] allow paratransit vehicles to be dispatched which have been inspected and approved by the New York State Department of Transportation. \$100-\$500
Personal Appearance
Not Required.
-
- (i) An owner shall only [dispatch] allow to be dispatched paratransit vehicles having equipment and devices specifically required by the Vehicle and Traffic Law and the Commission for use of paratransit vehicles unless [he] the owner obtains written authorization from the Commission [.] (excluding mobility devices, such as grab bars[,] or non-slip flooring). \$30-\$300 and/or
suspension up to 30
days. Personal
Appearance Required.
- (j) An owner shall affix and a base owner shall be responsible for confirming that the vehicle has affixed a commercial use motor vehicle tax stamp to the lower right side of the paratransit vehicle windshield, so as to be plainly visible. \$25 Personal
Appearance
Not Required.
- (k) [The] Prior to January 1, 2008, the owner shall affix and the base owner shall be responsible for confirming that the owner has affixed to the paratransit vehicle[,] Commission identification stickers (exterior decals), the company name or trade name and other vehicle identification number and markings required by the Commission and New York State Law. Notwithstanding the provisions set forth in this subdivision (k), on and after January 1, 2008, the owner and base owner shall be responsible for: \$50 Personal
Appearance
Not Required.
- (i) when the paratransit vehicle is first licensed by the Commission, having the mileage of the paratransit vehicle verified as being in accord with section 4-18(j) of this chapter, by producing to the Commission at licensing the New York State Department of Transportation Form MC300 dated not more than one month prior to licensing indicating the vehicle mileage and,
- (ii) when the paratransit vehicle is first licensed by the Commission, its license is being renewed, or when otherwise necessary, having affixed to each paratransit vehicle a valid Commission decal so as to be plainly visible.

- | | |
|--|---|
| <p>(l) An owner <u>and a base owner</u> shall not display advertising on the exterior or interior of a paratransit vehicle unless [he] <u>the owner and base owner</u> [has] <u>have</u> first obtained Commission authorization.</p> | <p>\$50 Personal Appearance Not Required.</p> |
| <p>(m) An owner <u>and a base owner</u> shall only permit the operation and the dispatch of a paratransit vehicle when the following are present in the vehicle:</p> <ul style="list-style-type: none"> (1) the driver's <u>written</u> trip record; (2) the driver's paratransit driver's license; (3) the registration certificate or a photostat thereof; (4) the paratransit vehicle [identification card] <u>license</u> or a photostat thereof; (5) the individual vehicle insurance card or photostat thereof; (6) the lease card or agreement, if any, or a photostat thereof; (7) all required notices; and (8) a two-way radio, if the <u>base owner</u> [employs] <u>uses</u> a radio[dispatcher] <u>system</u>; <u>and</u> (9) <u>on and after July 1, 2008, an electronic trip record system in lieu of the written trip record set forth in paragraph (1) of this subdivision, unless such system malfunctions, the malfunction is timely reported to the Commission and the paratransit vehicle is operated for hire not more than three (3) business days before being repaired, during which time a written trip record shall be used.</u> | <p>\$15 for each violation of this rule[;however, no violation of this rule shall exceed \$30]. Personal Appearance Not Required.</p> |
| <p>(n) <u>On July 1, 2008, and thereafter, owners and base owners shall install in all paratransit vehicles an electronic trip record system that collects electronic trip record data required by subdivision 4-09(gg) during and for each trip.</u></p> | <p><u>\$250 and suspension until compliance. Personal Appearance Not Required.</u></p> |
| <p>(o) (1) <u>On July 1, 2008, and thereafter, an owner shall not allow to be dispatched and a base owner shall not dispatch a paratransit vehicle unless the electronic trip record system in the paratransit vehicle required by subdivision (n) of this section is in good working order.</u></p> <p>(2) <u>Should such system malfunction, the base owner shall report the malfunction to the Commission's Safety and Emissions Facility within twenty-four (24) hours of the time when the base owner knew or should have</u></p> | <p>(1) <u>\$500 Personal Appearance Required.</u></p> <p>(2) <u>\$250 Personal Appearance Required.</u></p> |

known of the malfunction, and the owner shall have the system repaired or replaced within three (3) business days of the report to Safety and Emissions. A paratransit vehicle in which the electronic trip record system is malfunctioning shall not be dispatched more than three (3) business days following the time when the malfunction was reported to Safety and Emissions.

Section 9. The title and subdivisions (a), (b), (c), (d), (f), (g) and (h) of Section 4-11 of Chapter 4 of Title 35 of the Rules of the City of New York are amended to read as follows:

§4-11 Owner’s and Base Owner’s Responsibilities to the Passengers and Public.

	Penalty
(a) Owners <u>and base owners</u> shall be courteous toward passengers and the general public, including Commission personnel, while performing [his] <u>the owner’s and the base owner’s duties and responsibilities as [a paratransit vehicle] an owner and a base owner.</u>	\$25 Personal Appearance Not Required.
(b) An owner <u>and a base owner</u> shall not threaten, harass, or abuse any passenger, Commission representative, or any other person while performing [his] <u>the owner’s and the base owner’s</u> duties and responsibilities as [a paratransit vehicle] <u>an owner and a base owner.</u> An owner and a base owner shall not harm or use physical force against or attempt to harm or use physical force against a service animal that is accompanying a person with a disability.	\$50-\$350 and/or suspension up to 30 days. Personal Appearance Required.
(c) An owner <u>and a base owner</u> shall not use or attempt to use any physical force against a passenger, Commission representative, or any other person, while performing [his] <u>the owner’s and the base owner’s</u> duties and responsibilities as [a paratransit vehicle] <u>an owner and a base owner.</u> An owner <u>and a base owner</u> shall not harm or use physical force against or attempt to harm or use physical force against a service animal that is accompanying a person with a disability.	\$20-\$350 and/or suspension up to 30 days possible revocation (OATH) Personal Appearance Required.
(d) An owner <u>and a base owner</u> shall:	
(1) Schedule the daily pickups of passengers and the dispatchment of [his] <u>a paratransit vehicle as expeditiously as possible,</u>	(1) \$25 Personal Appearance Not Required.

[so as] to prevent and avoid an unreasonably late pickup or no pickup [at all].

- (2) If such pickup is unreasonably delayed or cancelled, the owner or base owner shall promptly notify the waiting passenger of the delay or cancellation.

(2) \$50 Personal Appearance Not Required.

. . . .

- (f) An owner and a base owner shall monitor the behavior and conduct of the [paratransit vehicle] drivers toward the passengers. An owner and a base owner shall also investigate complaints by a passenger and [he] shall take appropriate and reasonable action.

\$50-\$250 and/or suspension until a monitoring procedure is devised and/or other appropriate action is taken to the satisfaction of the Commission. Personal Appearance Required.

- (g) An owner shall not charge or attempt to charge a fare above the approved rate of fare currently filed with the Commission. An owner shall not impose or attempt to impose any additional charge for transporting a person with a disability, a service animal accompanying a person with a disability or a wheelchair or other mobility aid.

See §[4-14] 4-13 Personal Appearance Required.

- (h) An owner shall not refuse by words, gestures or any other means, without justifiable grounds to provide transportation to any orderly person, who has prearranged the trip and the destination is within New York City, unless he does not have a vehicle then available for the requested transportation.

See §[4-14] 4-13 Personal Appearance Required.

Section 10. Subdivision (a) of Section 4-13 of Chapter 4 of Title 35 of the Rules of the City of New York is amended to read as follows:

§ 4-13 Mandatory Penalties.

- (a) Any licensee who has been found to have violated a provision of [§§] sections 4-06(b), 4-07(d), 4-08(g), 4-08(i)(1), 4-08(n), 4-08(t), 4-09(a), 4-09(b), 4-

09(c), 4-09(h), 4-09(w), 4-09(bb), 4-11(g), 4-11(h) or any combination thereof, shall be fined not less than \$100 nor more than \$350 for each violation for which a licensee is convicted. Any licensee who has been found in violation of any of the provisions of such rules or any combination thereof, for a second time within a twenty-four month period shall be fined not less than \$350 nor more than \$500. The Commission shall mandatorily revoke the driver's, the base owner's or the owner's license of any paratransit driver, base owner or owner who has been found to have violated any of the provisions of [§§] sections 4-06(b), 4-07(d), 4-08(g), 4-08(i)(1), 4-08(n), 4-08(t), 4-09(a), 4-09(b), 4-09(c), 4-09(h), 4-09(w), 4-09(bb), 4-11(g), 4-11(h) or any combination thereof, three times within a twenty-four month period. Nothing contained herein shall limit or restrict any other authority the Commission may have to suspend or revoke a paratransit driver's license.

Section 11. New Section 4-18 of Chapter 4 of Title 35 of the Rules of the City of New York is added to read as follows:

Section 4-18 Vehicle Retirement and First Licensing.

- (a) All paratransit vehicles first licensed by the Commission on or after January 1, 2008, shall meet the mileage specifications of a qualified replacement paratransit vehicle set forth in subdivision (j) of this section and shall comply with subdivision (h) of this section unless excepted pursuant to subdivision (i) of this section.
- (b) All paratransit vehicles that are of model year 1998 or earlier must be retired from paratransit service no later than the expiration dates of their paratransit vehicle licenses on and after January 1, 2008.
- (c) All paratransit vehicles that are of model year 2000 or earlier must be retired from paratransit service no later than the expiration dates of their paratransit vehicle licenses on and after January 1, 2009.
- (d) All paratransit vehicles that are of model year 2002 or earlier must be retired from paratransit service no later than the expiration dates of their paratransit vehicle licenses on and after January 1, 2010.
- (e) All paratransit vehicles that are of model year 2004 or earlier must be retired from paratransit service no later than the expiration dates of their paratransit vehicle licenses on and after January 1, 2011.
- (f) On and after January 1, 2012, all paratransit vehicles shall be retired no later than seven (7) years after the vehicle was first licensed.
- (g) A paratransit vehicle that cannot pass the New York State Department of Transportation inspection must be retired, regardless of whether its

retirement date has been reached. A paratransit vehicle which has reached its retirement date must be retired, regardless of whether it may still pass the New York State Department of Transportation inspection.

(h) When the paratransit vehicle is first licensed by the Commission, the Commission shall verify that the mileage on the New York State Department of Transportation Form MC300 for such vehicle, dated not more than one month prior to the paratransit vehicle licensing, accords with the specifications in subdivision (j) of this section.

(i) An owner may request an extension of a vehicle's retirement date no later than two months before that retirement date. The extension request must include documentation demonstrating that a new vehicle has been ordered but will not be delivered until after the retirement date, but no later than 60 days after the retirement date. The Commission's Chairperson, or his or her designee, may confirm the delivery date independently. Should the owner's documentation comply fully with the terms of this section and the compliant delivery date is confirmed, an extension of the vehicle's retirement date to the projected delivery date of the new vehicle shall be granted.

(j)(1) On and after January 1, 2008, all qualified replacement paratransit vehicles shall have been driven less than 100,000 miles;

(2) On and after January 1, 2009, all qualified replacement paratransit vehicles shall have been driven less than 50,000 miles;

(3) On and after January 1, 2010, all qualified replacement paratransit vehicles shall have been driven less than 25,000 miles; and

(4) On and after January 1, 2011, all qualified replacement paratransit vehicles be of the most recent model year or the immediately preceding model year and shall have been driven less than 500 miles.

Statement of Basis and Purpose of Rules

The rules amend existing Commission rules relating to paratransit vehicles and paratransit services in three respects.

First, the rules govern the age of paratransit vehicles for the first time. Beginning on January 1, 2008, newly licensed paratransit vehicles and qualified replacement paratransit vehicles are required to have been driven less than 100,000 miles. There will be a phase in period annually reducing the permissible mileage on the paratransit vehicles to 50,000, 25,000 and on and after January 1, 2011, to less than 500 miles. To verify the mileage, the Commission at licensing will confirm that the paratransit vehicle's mileage indicated on the New York State Department of Transportation Form MC300, dated not more than one month prior to the Commission licensing, is in accord with the qualified replacement vehicle requirements of section 4-18(j). Also, after a phase-in period ending January 1, 2012, paratransit vehicles are required to be retired no later than seven years after the vehicle was first licensed. The Commission may grant a retirement extension to the owner of a paratransit vehicle who demonstrates that a replacement vehicle is unavailable and a shipment date that is not more than sixty (60) days from the retirement date.

The purposes of these rules are to enhance the safety of paratransit vehicles and to reduce the volume of pollutants created by those vehicles. Newer vehicles generally operate more safely and efficiently, and more recently manufactured vehicles are generally equipped with more recent safety and air quality technologies.

Second, the rules require the conversion from written to electronic trip records by July 1, 2008. The purposes of these rules are to enhance the accountability of paratransit drivers to paratransit vehicle owners and paratransit bases, and to enhance the accountability of the paratransit industry as a whole to its customers and to the Commission, by creating a more accurate and reliable record of the paratransit vehicle's operations. The rules require a vehicle owner and a base owner to transmit electronic trip records to the Commission once a month.

Third, the rules clarify the responsibilities of paratransit bases and paratransit vehicle owners. Existing rules specify the responsibilities of paratransit vehicle owners (sections 4-09 to 4-11), and assume that the paratransit base owner and the paratransit vehicle owner are identical – which is usually, but not always, the case. Therefore, the rules separately state the obligations of paratransit bases and paratransit vehicle owners. The rules also provide that service of notice from the Commission to a paratransit base is sufficient if sent to the last mailing address furnished to the Commission by the base owner and also that the Commission may deny a base owner's renewal application or suspend or revoke the base owner's license should the Commission become aware of information that the base owner no longer meets the requirements for a base license.