

NEW YORK CITY TAXI AND LIMOUSINE COMMISSION

Notice of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing? The Taxi and Limousine Commission is proposing rules which would prohibit all licensed vehicle owners and licensed bases from engaging in retaliatory conduct against licensed drivers who make complaints against vehicle owners and bases.

When and where is the Hearing? The Commission will hold a public hearing, at which the public and interested parties are invited to submit comments and testimony on the proposed rules, at 10:00 a.m. on September 17, 2015. This hearing will be held in the Commission's public hearing room at 33 Beaver St., New York, NY on the 19th Floor.

How do I comment on the proposed rules? Anyone can comment on the proposed rules by:

- **Mail.** You can mail comments to the Taxi and Limousine Commission, Office of Legal Affairs, 33 Beaver Street – 22nd Floor, New York, New York 10004.
- **Fax.** You can fax comments to the Taxi and Limousine Commission, Office of Legal Affairs, at 212-676-1102.
- **Email.** You can email comments to tlcrules@tlc.nyc.gov.
- **Website.** You can submit comments to the Taxi and Limousine Commission through the NYC rules Web site at www.nyc.gov/nycrules.
- **By Speaking at the Hearings.** Anyone who wants to comment on the proposed rule at the public hearings must sign up to speak. You can sign up before either hearing by calling 212-676-1135. You can also sign up in the hearing room before the session begins on September 17, 2015. You can speak for up to three minutes.

Is there a deadline to submit comments? Yes, you must submit comments by September 13, 2015.

Do you need assistance to participate in the Hearings? You must tell the Office of Legal Affairs if you need a reasonable accommodation of a disability at the Hearing. You must tell us if you need a sign language interpreter. You can tell us by mail at the address given above. You may also tell us by telephone at 212-676-1135. You must tell us by September 10, 2015.

Can I review the comments made on the proposed rules? A few days after the hearing, a transcript of the hearing and copies of the written comments will be available to the public at the Office of Legal Affairs.

What authorizes the Commission to make this rule? Sections 1043 and 2303 of the City Charter and section 19-503 of the City Administrative Code authorize the Commission to make this proposed rule. This proposed rule was not included in the Commission's regulatory agenda for this Fiscal Year because the need for it was not contemplated when the Commission published the agenda.

Where can I find the Commission's rules? The Commission's rules are in title 35 of the Rules of the City of New York.

What rules govern the rulemaking process? The Commission must meet the requirements of Section 1043 of the City Charter when creating or changing rules. This notice is made according to the requirements of Section 1043(b) of the City Charter.

STATEMENT OF BASIS AND PURPOSE OF RULE

The TLC is proposing rules which would establish protection for all licensed drivers from retaliatory actions by licensed base and vehicle owners made in response to complaints made against those owners by drivers. Under current TLC Rule 58-21(j), medallion taxi drivers are already afforded this protection from retaliatory actions taken by medallion owners or managing agents.

Given that the majority of licensees do not operate medallion vehicles, the TLC seeks to extend driver protection to all drivers. The purpose of the proposed rule is to afford all licensees equal protection under TLC Rules and encourage them to bring legitimate complaints to the attention of the TLC without fear of reprisal. This is necessary in order for the TLC to perform its regulatory and supervisory functions properly.

The Commission's authority for this rule is found in section 2303 of the New York City Charter and section 19-503 of the Administrative Code of the City of New York.

New material is underlined.

[Material inside brackets indicates deleted material.]

Section 1. Section 59A-13 of Title 35 of the Rules of the City of New York is amended by adding a new subdivision (m), to read as follows:

(m) Retaliation.

- (1) A For-Hire Vehicle Owner must not retaliate against any Driver for making a good faith complaint against any Owner.
- (2) Retaliation will be broadly construed, and will include imposing any adverse condition or consequence on the Driver or withholding or withdrawing any beneficial condition or consequence from the Driver.

<u>59A-13(m)</u>	<u>Fine: \$1,000 plus restitution to the driver for losses for the first violation and a fine of \$10,000 plus restitution to the driver for the second violation within five years.</u>	<u>Appearance NOT REQUIRED</u>
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Section 2. Section 59B-13 of Title 35 of the Rules of the City of New York is amended by adding a new subdivision (n), to read as follows:

(n) Retaliation.

- (1) A For-Hire Vehicle Base must not retaliate against any Driver for making a good faith complaint against any Base.
- (2) Retaliation will be broadly construed, and will include imposing any adverse condition or consequence on the Driver or withholding or withdrawing any beneficial condition or consequence from the Driver.

<u>59B-13(n)</u>	<u>Fine: \$1,000 plus restitution to the driver for losses for the first violation and a fine of \$10,000 plus restitution to the driver for the second violation within five years.</u>	<u>Appearance NOT REQUIRED</u>
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Section 3. Section 60A-12 of Title 35 of the Rules of the City of New York is amended by adding a new subdivision (n), to read as follows:

(n) Retaliation.

- (1) A Paratransit Vehicle Owner must not retaliate against any Driver for making a good faith complaint against any Owner.

- (2) Retaliation will be broadly construed, and will include imposing any adverse condition or consequence on the Driver or withholding or withdrawing any beneficial condition or consequence from the Driver.

<u>60A-12(n)</u>	<u>Fine: \$1,000 plus restitution to the driver for losses for the first violation and a fine of \$10,000 plus restitution to the driver for the second violation within five years.</u>	<u>Appearance NOT REQUIRED</u>
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Section 4. Section 60B-12 of Title 35 of the Rules of the City of New York is amended by adding a new subdivision (m), to read as follows:

(m) Retaliation.

- (1) A Paratransit Base must not retaliate against any Driver for making a good faith complaint against any Base.
- (2) Retaliation will be broadly construed, and will include imposing any adverse condition or consequence on the Driver or withholding or withdrawing any beneficial condition or consequence from the Driver.

<u>60B-12(m)</u>	<u>Fine: \$1,000 plus restitution to the driver for losses for the first violation and a fine of \$10,000 plus restitution to the driver for the second violation within five years.</u>	<u>Appearance NOT REQUIRED</u>
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Section 5. Section 61A-12 of Title 35 of the Rules of the City of New York is amended by adding a new subdivision (j), to read as follows:

(j) Retaliation.

- (1) A Commuter Van Vehicle Owner must not retaliate against any Driver for making a good faith complaint against any Owner.
- (2) Retaliation will be broadly construed, and will include imposing any adverse condition or consequence on the Driver or withholding or withdrawing any beneficial condition or consequence from the Driver.

<u>61A-12(j)</u>	<u>Fine: \$1,000 plus restitution to the driver for losses for the first violation and a fine of \$10,000 plus restitution to the driver for the second violation within five years.</u>	<u>Appearance NOT REQUIRED</u>
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Section 6. Section 61B-12 of Title 35 of the Rules of the City of New York is amended by adding a new subdivision (j), to read as follows:

(j) Retaliation.

- (1) A Commuter Van Service Owner must not retaliate against any Driver for making a good faith complaint against any Owner.
- (2) Retaliation will be broadly construed, and will include imposing any adverse condition or consequence on the Driver or withholding or withdrawing any beneficial condition or consequence from the Driver.

<u>61B-12(j)</u>	<u>Fine: \$1,000 plus restitution to the driver for losses for the first violation and a fine of \$10,000 plus restitution to the driver for the second violation within five years.</u>	<u>Appearance NOT REQUIRED</u>
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Section 7. Section 82-16 of Title 35 of the Rules of the City of New York is amended by adding a new subdivision (l), to read as follows:

(l) Retaliation.

- (1) A Street Hail Livery Owner must not retaliate against any Driver for making a good faith complaint against any Owner.
- (2) Retaliation will be broadly construed, and will include imposing any adverse condition or consequence on the Driver or withholding or withdrawing any beneficial condition or consequence from the Driver.

<u>82-16(l)</u>	<u>Fine: \$1,000 plus restitution to the driver for losses for the first violation and a fine of \$10,000 plus restitution to the driver for the second violation within five years.</u>	<u>Appearance NOT REQUIRED</u>
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**NEW YORK CITY LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, NY 10007
212-356-4028**

**CERTIFICATION PURSUANT TO
CHARTER §1043(d)**

RULE TITLE: Prohibition of Retaliation Against For-Hire Vehicle Drivers

REFERENCE NUMBER: 2015 RG 094

RULEMAKING AGENCY: Taxi and Limousine Commission

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN
Acting Corporation Counsel

Date: August 6, 2015

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS
253 BROADWAY, 10th FLOOR
NEW YORK, NY 10007
212-788-1400**

**CERTIFICATION / ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)**

RULE TITLE: Prohibition of Retaliation Against For-Hire Vehicle Drivers

REFERENCE NUMBER: TLC-84

RULEMAKING AGENCY: TLC

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Does not provide a cure period because rule violations arise from completed events, the consequences of which are immediate, which makes a cure period impracticable under the circumstances.

/s/ Francisco Navarro
Mayor's Office of Operations

August 7, 2015
Date