

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 Charter of the City of New York (“Charter”) that the Taxi and Limousine Commission (“TLC”) proposes rules governing the promulgation of a new rule books.

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. These proposed rules were included in the TLC’s regulatory agenda for Fiscal Year 2010.

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 March 5, 2010 at 2:30 p.m. 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 February 26, 2010.

The public hearing will not be a meeting of the Commissioners of the Taxi and Limousine Commission and will be chaired by the TLC’s Deputy Commissioner for Legal Affairs. Persons who wish to speak at the hearing will be strictly limited to three minutes of speaking time. Persons who wish to comment on the proposed rules are urged to submit written comments. There is no page limit on written comments.

Written comments in connection with these proposed rules should be submitted to the Office of Legal Affairs and must be received no later than March 2, 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.

Section 1. It is hereby proposed to amend Title 35 of the Rules of the City of New York by adding a new chapter 20 thereto, to read as follows:

New Material is underlined.

Chapter 20

Transition Rules

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§20-01 Scope of this Chapter

- (a) To repeal existing TLC rules;
- (b) To promulgate new TLC rules of which this chapter is part;
- (c) To provide for a transition from the existing rules to the new rules;
- (d) To set forth the general purpose that actions taken under the existing rules remain effective when the new rules take effect, a purpose which is to be construed broadly.

§20-02 Penalties

This chapter is informational in nature and does not provide for any penalties.

§20-03 Definitions Specific to this Chapter

- (a) Activation Date. The Activation Date is July 1, 2010.
- (b) New Rules. Title 35 of the Rules of the City of New York and any amendments that become effective on and after the Activation Date.
- (c) Old Rules. Title 35 of the Rules of the City of New York as in effect before the Activation Date.

§20-04 Rules

- (a) Old Rules. The Old Rules are repealed on the Activation Date.
- (b) New Rules. The New Rules become effective and binding on the Activation Date.

§20-05 Existing Licenses

- (a) Existing Licenses. All Licenses issued by the Commission and Valid at the Activation Date continue in existence.
- (b) Obligation to follow New Rules. All Licensees must obey the New Rules beginning on the Activation Date. It does not matter when a License was issued or when the License expires. A Licensee will be responsible for his or her conduct as a Licensee under the New Rules beginning on the Activation Date.

- (c) Old Rules are no defense to ongoing obligations. No person can raise as a defense to a violation of the New Rules from the Activation Date either the existence of the Old Rules before the Activation Date or that a License was issued under the Old Rules.
- (d) License Terms-Expiration.
 - (1) A License Valid and in effect on the Activation Date expires on the date it was scheduled to expire when issued under the Old Rules.
 - (2) A License suspended on the Activation Date expires on the date it was scheduled to expire when issued under the Old Rules.
- (e) License Renewals. When a License expires on or after the Activation Date, the New Rules apply to any application to renew that License.

§20-06 License Applications

- (a) License Applications received before the Activation Date. License applications received before the Activation Date will be processed under the Old Rules. However, for any such License, the Licensee must follow the New Rules beginning on the Activation Date.
- (b) License Applications received after the Activation Date. License applications received on and after the Activation Date will be processed under the New Rules.

§20-07 Persistence of Enforcement Actions

- (a) Summonses.
 - (1) All summonses written and outstanding under the Old Rules remain valid at the Activation Date. Charges in the summonses will be adjudicated under the Old Rules.
 - (2) All summonses written beginning on the Activation Date will be written under the New Rules. Charges in the summonses will be adjudicated under the New Rules.
 - (3) No summons can be dismissed on or after the Activation Date on the ground that it was written under the Old Rules for conduct that occurred before the Activation Date.
- (b) Outstanding Fines and Penalties.
 - (1) Fines, penalties and debts owed to the Commission on the Activation Date for violations of any rule or duty continue to be due and payable until paid.

- (2) Any fine, penalty or debt imposed on or after the Activation Date resulting from a summons written under the Old Rules for conduct that occurred before the Activation Date will be due and payable until paid.
- (c) Suspensions.
- (1) Any License suspension which has gone into effect before the Activation Date remains in effect beginning on the Activation Date and must be served until the terms of the suspension are satisfied.
- (2) Any suspension imposed under the Old Rules which goes into effect beginning on or after the Activation Date must be served until the terms of the suspension are satisfied.
- (3) The Activation Date will not affect the end date of any suspension.
- (d) Hearing Schedules. The Activation Date will not affect the date of any Hearing or other action scheduled before the Commission's Adjudications Tribunal or OATH
- (e) Directives and Notices to Correct.
- (1) Any directive or notice to correct issued by the Commission before the Activation Date remains in effect on the Activation Date and until complied with.
- (2) Penalties for violation of any directive or notice to correct issued before the Activation Date will be imposed under the Old Rules.
- (f) Outstanding Points for Drivers, Vehicle Owners, and Bases.
- (1) All points issued as penalties by the Commission under any of the Persistent Violator or Critical Driver Programs, or as Penalty Points to owners of For-Hire Vehicles or Bases and accumulated against any License on the Activation Date remain in effect.
- (2) Any points issued and accumulated on and after the Activation Date as a result of summonses issued under the Old Rules will be added to any accumulated points.
- (3) Any action to suspend or revoke any License under any accumulated point program initiated on or after the Activation Date will be governed by the New Rules .
- (4) In any action to suspend or revoke, the Commission will consider points accumulated within the period specified by applicable rules. Points accumulated against a License both before and on and after the Activation Date will be considered.

- (g) Cumulative Penalties. When penalties are affected by the number of times a person has been convicted of that violation, convictions for prior offenses under the Old Rules count toward second and subsequent offense penalties under the New Rules.

Statement of Basis and Purpose of Rules

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 rules are part of a project undertaken by the Taxi and Limousine Commission (“TLC”) to revise its existing rule book. The first phase of this project consists of reorganizing and redrafting TLC’s rules, to enhance their clarity and accessibility without substantive change. Accordingly, these rules are not intended to make any changes to TLC’s current policies, procedures or operations.

During this first phase of the rules revision project, all of TLC’s existing rules will be redrafted, then posted on a chapter-by-chapter basis on the TLC Web site for review and discussion by interested members of the public. Each chapter will be revised based on that discussion, then published for public comment and public hearing pursuant to the City Administrative Procedure Act (CAPA). Because this phase of the rules revision is intended to involve no substantive changes to the rules, and as announced at the Commission meeting held on August 7, 2008, public hearings will be held separately from monthly stated Commission meetings.

When this process has been completed for all TLC rules, the complete set of rules will be presented to the Commission for promulgation simultaneously with repeal of the current set of TLC rules. The revised rules will replace the existing rules compiled in chapter 35 of the Rules of the City of New York. It is anticipated that the promulgation of the revised rules and repeal of the current rules will occur in 2010.

After the first phase of its rules revision is completed, TLC will move to the second phase, which will involve the assessment of its rules for more substantive changes.

The rules proposed here are intended to effect the transition between the existing rule book and the new rule book. The proposed rules are generally intended to ensure that actions validly taken under the existing rules by the TLC, any licensee or applicant, or any other person, remain valid and effective under the new rules. The TLC intends to construe these rules to ensure that no action, consequence, or duty may be avoided simply because the existing rules are replaced by new rules. The rules address such matters as

- An application will be processed according to the rules that are in effect on the date the application is received.
- A license that is validly issued under the existing rules will remain valid for its stated term, despite the promulgation of the new rules..
- A summons validly issued under the existing rules will remain valid under the new rules.
- A summons validly issued under the existing rules will be adjudicated under the existing rules, even if the adjudication occurs entirely or in part after the effective date of the new rules.
- A fine or other penalty validly imposed under the existing rules will remain valid and enforceable under the new rules.

- A directive or notice to correct that is validly issued under the existing rules will remain valid and enforceable under the new rules.
- Points accumulated in penalty programs in the existing rules, such as the persistent violator program or the critical driver program, will remain in effect under the new rules. Therefore, for example, the “look-back” period for the persistent violator program and for the critical driver program will continue to be 15 months under the new rules, and will incorporate points that were accrued for violations that occurred under the existing rules.
- Predicate offenses that occur under the existing rules will remain in effect under the new rules. That is, if a violation occurs under the existing rules, it will count toward “second offense” penalties or other applicable multiple offense provisions in the new rules.