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ATTENTION:
FHV bases using smartphone apps for dispatch and
developers of smartphone apps for dispatch

The TLC has received a number of inquiries regarding the status of smartphone application businesses that offer or appear to offer for-hire transportation services to the general public ("Smartphone Apps"). In particular, the Commission has received inquiries as to whether a Smartphone App is required to hold a license (a "Base License") under Section 19-506 of the Administrative Code and Section 59B-11 of TLC Rules.

In response to these inquiries, the Commission wishes to clarify the circumstances in which a Smartphone App is required to hold a Base License, and also to remind licensees of Commission rules that may be pertinent to FHV bases which contract with Smartphone Apps. (Also, see Industry Notice #11-15, dated July 1, 2011, directed at vehicle owners/drivers using Smartphone Apps for dispatch.)

A Smartphone App that functions solely as a referral, reservation or advertising service for a licensed base will generally not require licensure.

However, for-hire vehicle bases must ensure that any Smartphone Apps they employ do not cause them to violate any TLC regulations or laws, including but not limited to the following:

- Any base advertising, including via Smartphone App, requires a base to disclose its base name and license number (TLC Rule 59B-25 (c)(1)).
- No base advertising can use the term "taxi", "taxicab", "cab", "hack" or "coach (TLC Rule 59B-25 (b)).
- Bases must maintain on file with TLC their Smartphone App rates of fare if those rates of fare are different than their existing rates (TLC Rule 59B-21(a)).
- Bases must maintain on file with the TLC their Smartphone App public contact information (TLC Rule 59B-21(c)).
- Bases must ensure that they are in compliance with State workers'

compensation laws relating to all trips dispatched via Smartphone Apps (as they must for traditional dispatch trips). (TLC Rule 59B-12).

- Bases must ensure that they are in compliance with any laws, rules or regulations relating to the collection of State taxes applicable to all trips dispatched via Smartphone Apps (as they must for traditional dispatch trips).
- Bases must ensure that they are in compliance with TLC regulations governing the provision of wheelchair accessible service (TLC Rule 59B-17(c)).
- Bases must ensure that the trip sheets of any trips that were dispatched via a Smartphone App are maintained and available for inspection for at least six (6) months after the trip (TLC Rule 59B-19(b)(2)).
- Bases must be able to handle customer complaints, including via a Smartphone App (TLC Rule 59B-17(a)).
- Bases providing their phone number through a Smartphone App must make sure it has 24-hour capability (TLC Rule 59B-20 (c)(2)).
- Bases must ensure they are dispatching calls within the hours of operation filed with TLC (TLC Rule 59B-21(b)).

As entities regulated by the TLC, for-hire vehicle bases will be held accountable by the TLC if their use of such Smartphone Apps causes them to not be in compliance with any such laws, rules or regulations. For-hire vehicle bases should review all TLC regulations to ensure that they are in compliance with these and all other relevant requirements. (As a reminder, yellow medallion taxis are NOT permitted to use Smartphone Apps for dispatch.)

A Smartphone App that provides for-hire transportation services directly and not through agreement with one or more licensed FHV bases, and not meeting the criteria above, including a Smartphone App that provides for-hire transportation services through direct agreement with TLC-licensed drivers, is required to hold a Base License. To ensure compliance, the TLC will, when it becomes aware of a Smartphone App believed to provide such services, request that the Smartphone App developer provide the following:

- A list of all FHV bases that the Smartphone App developer has contracted with and/or partnered with to provide Smartphone App dispatch service, along with the dates of commencement of any such partnership, and the effective dates of any agreements with such bases.
- An attestation that this is a complete list of all FHV bases that the Smartphone App developer has contracted with and/or partnered with; and further that the Smartphone App developer is not dispatching to any vehicle not affiliated with these partner bases (and is not dispatching to any vehicles and/or drivers not licensed by the TLC to accept dispatches).
- The form of any agreements between the Smartphone App developer and its partner bases or any vehicle owners or drivers using the Smartphone App.

- An attestation that the Smartphone App developer does not use the words “taxi”, “taxicab”, “cab”, “hack”, “coach”, “for-hire vehicle”, “livery” or “limousine” in any advertising.

The TLC will presume that a Smartphone App that does not comply with this request is operating in violation of TLC Rule 59B-11 and will pursue enforcement actions accordingly.

In addition to ensuring that a Smartphone App does not violate TLC’s regulations, and its use does not cause any TLC licensees to violate TLC’s regulations, the TLC has a responsibility to ensure the safety and security of passengers and to investigate passenger complaints relating to FHV service (including as may be provided via Smartphone Apps). As a result, the TLC may request, from Smartphone App developers certain trip sheet data (including but not limited to date/time, pick-up/drop-off location, identifying information relating to driver, vehicle, vehicle owner and/or affiliated base, fare information, last four digits of credit/debit card (or other identifying payment account information)) relating to trips facilitated by Smartphone App developers. If the TLC shall conclude that such assistance is not sufficiently and voluntarily forthcoming from Smartphone App developers, the TLC may re-visit its position on the need to license Smartphone App developers.

If you are an FHV base and have further questions about whether your use of a Smartphone App conforms to TLC regulations; or, if you are a Smartphone App developer and have questions about whether your Smartphone App complies with the foregoing, or to proactively provide the TLC the items required hereby, please contact TLC at DispatchApps@tlc.nyc.gov.