

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 considering changing its rules. The change would amend the TLC's Rules for Street Hail Livery Service and Street Hail Livery Licensees.

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 9:00 a.m. on September 12, 2013. 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 written 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 written comments to the Taxi and Limousine Commission, Office of Legal Affairs, at 212-676-1102.
- **Email.** You can email written 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 12, 2013. You can speak for up to three minutes.

Is there a deadline to submit written comments? Yes, you must submit written comments by July 15, 2013.

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 Thursday, September 5, 2013.

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, together with the provisions of state legislative bills S5825 and A8496 signed into law on December 23, 2011 and the provisions of S6118-A and A8691-A signed into law on February 17, 2012, 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 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

On December 23, 2011 Governor Cuomo signed into law chapter 602 of the Laws of 2011, and on February 17, 2012, signed into law chapter 9 of the Laws of 2012, which amended the previous statute. This legislation allows New York City to issue up to 18,000 transferable licenses to for-hire vehicles authorizing them to pick up passengers by street hail anywhere outside Manhattan (except for the airports) and in Manhattan north of West 110th Street and north of East 96th Street. Up to 6,000 of these licenses for Street Hail Liveries can be issued in the first year of the program. Twenty percent of these licenses will be set aside for wheelchair accessible vehicles (City subsidies for accessible vehicle purchase/upgrades will be available).

During early 2012, the New York City Taxi and Limousine Commission (TLC) adopted rules to implement this legislation, but they were subsequently stayed during the pendency of litigation, commenced in mid-2012, which challenged the legislation. Following the successful resolution of this litigation, and as it moves forward to implement the program set forth in the legislation and rules, the TLC is amending the rules to

- Update certain dates in the original rules to account for the passage of time
- Eliminate unneeded definitions
- Correct some penalties to reflect recently enacted local laws.

These rules are authorized by Section 2303 of the Charter and Section 19-503 of the Administrative Code of the City of New York.

New material is underlined.
[Deleted material is in brackets.]

Section 1. The definition of Livery Driver Authorization Period in Section 51-03 of Title 35 of the Rules of the City of New York is hereby repealed.

Section 2. Paragraph (ii) of subdivision (f) of section 54-02 of Title 35 of the Rules of the City of New York is amended to read as follows:

(ii) A For-Hire Driver authorized to operate a Street Hail Livery under Section 54-04.2 can be issued a summons for a violation of the requirements of this Chapter relating to the operation of a Street Hail Livery [during the Livery Driver Authorization Period] just as if the Driver was a Taxicab Driver licensed under this Chapter. It will not be a defense to any such summons that the driver is not licensed as a Taxicab Driver.

Section 3. Paragraphs (iii) and (iv) of subdivision (b) of section 54-03 of Title 35 of the Rules of the City of New York are amended to read as follows:

(iii) [During the Livery Driver Authorization Period] For a driver who qualifies under Section 54-04.2, the term Driver, when applied to a person driving Street Hail Livery, can also mean a licensed For-Hire Driver .

(iv) [During the Livery Driver Authorization Period] For a driver who qualifies under Section 54-04.2, the requirements of this Chapter applicable to Taxicab Drivers will also apply to For-Hire Drivers when such drivers are driving Street Hail Liveries.

Section 4. Subdivision (a) of section 54-04.2 of Title 35 of the Rules of the City of New York is amended to read as follows:

(a) The holder of a Valid For-Hire Driver's License on July [2, 2012] 1, 2013 is authorized to drive a Street Hail Livery subject to all the requirements of this Section.

Section 5. Paragraphs (i) and (ii) of subdivision (e) of section 54-04.2 of Title 35 of the Rules of the City of New York are amended to read as follows:

(i) A Driver seeking to use his or her For-Hire Driver's License to drive an Accessible Street Hail Livery must by January 2, [2013]2014 complete and pass a course in passenger assistance training as provided in section 54-04(n) of this chapter.

(ii) *Proof of Completion Required.* After January 2, [2013]2014, a For-Hire Driver must not operate an Accessible Street Hail Livery unless the driver has a certificate of completion or other evidence that he or she has completed the required training described above.

Section 6. Subdivision (a) of section 54-11 of Title 35 of the Rules of the City of New York is amended to read as follows:

(a) *Driver Must Have Valid Taxicab Driver's License.* A driver must not operate a Taxicab or Street Hail Livery in the City of New York while his or her Taxicab Driver's License is revoked, suspended or expired. A Paratransit Driver must not operate an Accessible Street Hail Livery in the City of New York while his or her Paratransit Driver's License is revoked, suspended, or expired. [During the Livery Driver Authorization Period, a] A For-Hire Driver who qualifies under Section 54-04.2 must not operate a Street Hail Livery while his or her FHV Driver's License is revoked, suspended or expired.

Section 7. The penalties for violation of section 54-19(b)(1)(i) of Title 35 of the Rules of the City of New York are amended to read as follows:

§54-19(b)(1)(i)	Fine: \$500 for the first violation, and [when local law so authorizes,] suspension; \$750 for the second violation in 24 months and[, when local law so authorizes,] suspension; Revocation for third violation in 120 months	Appearance REQUIRED
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Section 8. Subdivision (a) of section 55-28 of Title 35 of the Rules of the City of New York is amended to read as follows:

(a) The holder of a Valid For-Hire Driver's License on July [2, 2012] 1, 2013 is authorized to drive a Street Hail Livery subject to all the requirements of this Section and Chapter 54 of these Rules.

Section 9. The definition of "Driver" set forth in subdivision (c) of section 82-03 of Title 35 of the Rules of the City of New York is amended to read as follows:

(c) *Driver* in this Chapter means a Driver of a Street Hail Livery who is authorized to by these rules to drive a Street Hail Livery. A Driver can be a Taxicab Driver or a Paratransit Driver who is driving an Accessible Street Hail Livery. [During the Livery Driver Authorization Period, as defined in § 51-03 of these rules, a] A Driver can also be a For-Hire Driver when driving a Street Hail Livery if authorized by Section 54-04.2. *See Chapter 54 of these Rules for Driver requirements.*

Section 10. The penalties for violation of section 82-12(b)(1)(ii) of Title 35 of the Rules of the City of New York are amended to read as follows:

§82-12(b)(1)(ii)	Vehicle Fine: \$ <u>1500</u> for the first offense [in 12 months]; \$[<u>1</u>] <u>2000</u> for the second and subsequent offenses within a [<u>12</u>] <u>36</u> -month period. Penalty Points: 1	Appearance NOT required
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Section 11. The penalties for violation of section 82-12(e)(1) of Title 35 of the Rules of the City of New York are amended to read as follows:

§82-12(e)(1)	Fine: [\$400 and/or suspension up to 30 days] <u>\$1500 for the first offense; \$2000 for the second and subsequent offenses within a 36-month period.</u> Penalty Points: 1	Appearance REQUIRED
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Section 12. The penalties for violation of section 82-13(a)(1)-(2) of Title 35 of the Rules of the City of New York are amended to read as follows:

§82-13(a)(1)-(2)	Fine: \$500 for the first violation and[, when local law so authorizes,] suspension; \$750 for the second violation in 24 months and[, when local law so authorizes,] suspension for up to 30 days; Revocation for third violation in 120 months	Appearance REQUIRED
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Section 13. Subdivision (a) of section 82-51 of Title 35 of the Rules of the City of New York is amended to read as follows:

(a) A vehicle that is currently licensed as a for-hire vehicle as of July [2, 2012] 1, 2013 or thereafter can be hacked up for use as a Street Hail Livery.

**NEW YORK CITY LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, NY 10007
212-788-1087**

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

RULE TITLE: Amendment of Street Hail Livery Rule

REFERENCE NUMBER: 2013 RG 050

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: June 10, 2013

**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: Amendment of Street Hail Livery Rule

REFERENCE NUMBER: TLC-50

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 for certain violations 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

June 10, 2013
Date