

## 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 for-hire vehicle base owners rules. The change would make for-hire vehicle bases responsible for affiliated drivers who accept “street hails” instead of operating by prearrangement, as required. A base owner whose drivers are committing an unacceptable number of street hail violations per month, as defined in the rule, will be fined \$5,000 to \$10,000 for the first violation and risks revocation of its base license for the second violation. The rule provides for mandatory base license revocation for the third offense within 36 months.

**When and where is the Hearing?** The Commission will hold a public hearing on the proposed rule. The public hearing will take place at 10:00 a.m. on Thursday, June 16, 2011. The hearing will be in the **Bronx Borough Hall Rotunda, 851 Grand Concourse, Bronx, NY 10451.**

**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 – 22<sup>nd</sup> 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](mailto: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](http://www.nyc.gov/nycrules).
- **By Speaking At the Hearing.** Anyone who wants to comment on the proposed rule at the public hearing must sign up to speak. You can sign up before the hearing by calling 212-676-1135. You can also sign up in the hearing room before the hearing begins on June 16, 2011 at 10:00 a.m. You can speak for up to three minutes.

**Is there a deadline to submit written comments?** Yes, you must submit written comments by June 15, 2011.

**Do you need assistance to participate in the Hearing?** 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, June 9, 2011.

**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 at 33 Beaver Street, 22<sup>nd</sup> Floor, New York, NY 10004.

**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 the rule was not anticipated at the time the regulatory agenda was published.

**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 Proposed Rule**

The Taxi and Limousine Commission’s rules require for-hire vehicle drivers to pick up passengers only by pre-arrangement through for-hire vehicle bases. For-hire vehicle drivers and for-hire vehicle owners are subject to penalties for accepting illegal “street hails,” but for-hire vehicle base owners are not subject to these penalties.

In 2009, as part of a comprehensive revision of rules applicable to the for-hire vehicle industry, the TLC proposed fines for vehicle base owners when their drivers accept “street hails.” Industry representatives objected to the penalties, and the Commission dropped the fines from its rules proposal.

Despite aggressive TLC enforcement against for-hire vehicle drivers and owners, the problem of illegal “street hails” persists. The TLC originally proposed a \$100 fine on a vehicle base owner for each illegal “street hail” accepted by its drivers, providing all vehicle base owners with the incentive to prevent their drivers from accepting illegal “street hails” without harming responsible bases.

During the comment period, the livery industry responded to the proposal with a proposal of its own. Rather than hold all bases strictly liable for the occasional street hail accepted by an affiliated driver, the revised rule penalizes bases whose drivers accept more than a certain number of illegal street hails and do not meet the required minimum number of pre-arranged pick-ups. This proposed rule establishes the following penalties:

- First offense: \$5,000 if plead guilty before a hearing; \$10,000 if found guilty following a hearing.
- Second offense within 24 months: \$10,000 and Discretionary License Revocation

- Third offense within 36 months: Mandatory License Revocation

By focusing enforcement efforts on these bases, the TLC is getting to the heart of the matter: bases that consistently operate in violation of our rules will be punished, while bases that are basically operating in conformance with our rules will not be penalized.

New material is underlined.

[Material inside brackets indicates deleted material.]

### **§59B-25 Operations – Miscellaneous Operating Requirements**

*No Street Hails Permitted.* A Base Owner must maintain and enforce rules and policies preventing Vehicles affiliated with the Base or dispatched by the Base and Drivers of these Vehicles from accepting street hails. A Base Owner will be considered not to be maintaining and enforcing such rules and policies if, at a hearing, both (1) and (2) are found to have occurred:

- (1) The Chairperson shows that Drivers of Vehicles that are affiliated with the Base have an unacceptable number of street hail violations (that is, violations of §55-19(a) or (b)). An “unacceptable number of street hail violations” is more than one violation per month for every ten Vehicles affiliated with the Base. For example, for a Base with ten or fewer affiliated Vehicles, one street hail violation per month is not an “unacceptable number of street hail violations,” but two or more violations per month is an “unacceptable number of street hail violations”.

A street hail violation counts against a Base only if the Driver is found guilty, but the violation is considered to occur during the month of the violation, not the month of the adjudication.

The Chairperson will mail a Base a copy of a street hail summons issued to a Driver of a Vehicle that is affiliated with the Base for informational purposes, but the failure to mail a copy of any summons, or the failure of the Base to receive a copy of any summons, will not be a defense to a charge that the Base has violated this subdivision.

- (2) The Base Owner fails to show that Vehicles affiliated with the Base accepted from the Base the minimum required number of pre-arranged trips per day.
  - for a Livery Base, the minimum number is five trips per day per Vehicle;

- for a Black Car Base the minimum number is two trips per day per Vehicle; and,
- for a Luxury Limousine Base the minimum number is one trip per day per Vehicle.

§59B-25(a)	Fine: [Suspension until compliance] <u>First offense: \$5,000 if plead guilty before a hearing; \$10,000 if found guilty following a hearing.</u>	<u>Appearance NOT REQUIRED</u>
	<u>Second offense within 24 months: \$10,000 and Discretionary License Revocation</u>	<u>Appearance REQUIRED</u>
	<u>Third offense within 36 months: Mandatory License Revocation</u>	<u>Appearance REQUIRED</u>

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

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

**RULE TITLE: Penalty for Acceptance of Street Hails by For-Hire Vehicles (Revised)**

**REFERENCE NUMBER: 2011 RG 038**

**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: May 12, 2011

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS  
253 BROADWAY, 10<sup>th</sup> FLOOR  
NEW YORK, NY 10007  
212-788-1526**

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

**RULE TITLE: Penalty for Acceptance of Street Hails by For-Hire Vehicles (Revised)  
REFERENCE NUMBER: TLC-6  
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 a cure period is not practicable under the circumstances.

/s/ Francisco Navarro  
Mayor's Office of Operations

May 12, 2011  
Date