

**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 sections 1043(b) and 2303 of the Charter of the City of New York (“Charter”) that the Taxi and Limousine Commission (“TLC”) proposes amendments to rules governing leasing of medallions and taxicabs to create provisions for long term leases.**

These rules are proposed pursuant to sections 1043 and 2303 of the Charter of the City of New York. These proposed rules were not included in the TLC’s regulatory agenda for Fiscal Year 2009 because the need for such rules was not anticipated at the time the regulatory agenda was published.

A public hearing on these proposed rules will be held by the TLC at its offices at 40 Rector Street, 5<sup>th</sup> Floor, New York, New York 10006 on March 26, 2009 at 9:30 a.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, by telephone, or by TTY/TDD no later than March 23, 2009.

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 25, 2009 to:

**Charles R. Fraser**  
***Deputy Commissioner for Legal Affairs/General Counsel***  
**Taxi and Limousine Commission**  
**40 Rector Street, 5<sup>th</sup> Floor**  
**New York, New York 10006**  
**Telephone: 212-676-1117**  
**Fax: 212-676-1102**  
**TTY/TDD: 212-341-9596**  
**Email: [tlcrules@tlc.nyc.gov](mailto: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.

New Material is underlined.  
[Brackets indicate deleted material.]

Section 1. It is hereby proposed that title 35, section 1-78(a)(4)(i) of the Rules of the City of New York be amended to read as follows:

**§1-78 Limitations on Standard Lease Rates Charged to Drivers.**

(a) *Standard Lease Cap.* An owner of a taxicab may charge a lease rate to a driver that is not greater than the Standard Lease Cap.

\* \* \*

(4)(i) The Standard Lease Cap for a medallion only, covering the entire time during a week or longer, shall not exceed \$800 weekly. This rate may be charged only where the leasing driver, or where at least one of a group of jointly leasing drivers, is the title owner of the vehicle.

Section 2. It is hereby proposed that section 1.78.1 of title 35 of the Rules of the City of New York be renumbered section 1-78.2, and that subdivision (a) of such section be revised to read as follows:

**§1-78.[1]2 Changes to Lease Caps.**

(a) During March of each even-numbered year, the Commission shall hold a public hearing and solicit written comment as to operating expenses, driver earnings, the retention of experienced drivers in the taxi industry, and other matters relevant to the setting of lease caps, for purposes of considering changes to the Standard Lease Caps established in section 1-78 of this chapter and the Long-Term Lease Caps established in section 1-78.1 of this chapter.

Section 3. It is hereby proposed that title 35 of the Rules of the City of New York be revised by the addition of a new section 1-78.1, to read as follows:

**§1-78.1 Limitations on Long-Term Lease Rates Charged to Drivers.**

(a) Long-Term Lease. A Long-Term Lease is a lease of a medallion and vehicle for a period of no less than five months and no greater than five years, covering the entire time during the lease. A Long-Term Lease is governed by the provisions in this section, and not by the provisions of section 1-78 of this chapter.

(b) Long-Term Lease Cap. An owner may charge a Long-Term Lease rate to a driver that is not greater than \$1050 per week.

(c) Cost adjustments. The Long-Term Lease Cap stated in subdivision (b) of this section shall be adjusted as follows:

(1) For a vehicle that is hacked up pursuant to section 3-03.1 of this title, including a vehicle that is authorized by section 3-03(c)(10) of this title, the Long-Term Lease Cap shall be adjusted upward by \$3 per shift, or \$42 per week.

(2) For a vehicle that is hacked up pursuant to section 3-03 of this title, excluding section 3-03(c)(10) of this title, the Long-Term Lease Cap shall be adjusted downward by \$6 per shift (\$84 per week) beginning on May 1, 2009, and by \$12 per shift (\$164 per week) beginning on May 1, 2010.

(d) No owner may charge to or accept from a driver any payment of any kind, whether a tax, surcharge, pass-along, tip or fee of any kind, for the lease of a medallion and a vehicle, other than a lease amount no greater than the Long-Term Lease Caps set forth in subdivisions (b) and (c) of this section, plus

(1) a credit card pass-along no greater than permitted by section 1-85(b) of this chapter;

(2) a security deposit no greater than permitted by section 1-79(c) of this chapter,.

(3) the discount toll amount for use of the EZ-Pass as permitted by sections 1-37 and 1-83 of this chapter; and

(4) a late charge not to exceed \$25 for any shift and

(5) a reasonable cancellation charge, subject to the provisions of section 1-79.1(c) of this chapter.

(e) The provisions of this rule do not apply to owners and lease drivers whose business relationship is governed by the terms of a collective bargaining agreement which regulates the subject of lease prices.

(f) Credit Card Charges. An owner or the owner's agent must pay a driver daily in cash the driver's receipts that are charged to a credit card on that day, less only a credit card pass-along no greater than permitted by section 1-85(b) of this chapter.

Section 4. It is hereby proposed that subdivision (a) of section 1-79.1 of title 35 of the Rules of the City of New York be amended to read as follows:

**§1-79.1 Lease Terms and Form of Lease.**

(a) Every lease entered into pursuant to section 1-78 and section 1-78.1 of this chapter, including any amendment to such lease, must be in writing, and must be signed by the owner or a person duly authorized to act on behalf of the owner, and by the leasing

driver or drivers.

Section 4. It is hereby proposed that title 35, section 1-86 of the Rules of the City of New York be amended by adding penalties for violation of section 1-78.1, to read as follows:

Rule No.	Penalty All fines listed below also include a separate license suspension, to run concurrent with any underlying suspension, until such fine is paid, unless such fine is paid by the close of business on the day assessed.	Personal Appearance Required
<u>§ 1-78.1(b)</u>	<u>First violation \$500</u> <u>Second and subsequent violations: \$1000 and/or suspension of the medallion for up to thirty days.</u> <u>In addition to the penalty payable to the Commission, the administrative law judge may order the owner to pay restitution to the driver, equal to the excess that was charged to the driver.</u>	<u>Yes</u>
<u>§1-78.1(c)</u>	<u>First violation \$500</u> <u>Second and subsequent violations: \$1000 and/or suspension of the medallion for up to thirty days.</u> <u>In addition to the penalty payable to the Commission, the administrative law judge may order the owner to pay restitution to the driver, equal to the excess that was charged to the driver.</u>	<u>Yes</u>
<u>§1-78.1(d)</u>	<u>First violation \$500</u> <u>Second and subsequent violations: \$1000 and/or suspension of the medallion for up to thirty days.</u> <u>In addition to the penalty</u>	<u>Yes</u>

	<u>payable to the Commission, the administrative law judge may order the owner to pay restitution to the driver, equal to the excess or non-authorized charge that was charged to the driver.</u>	
<u>§1-78.1(f)</u>	<u>\$100</u>	<u>No</u>

## **STATEMENT OF BASIS AND PURPOSE**

These proposed rules would amend the Taxi and Limousine Commission rules governing taxicab leasing by adding a new long-term lease option for medallions and taxicabs.

Agents leasing medallions to drivers who own their own vehicles (driver-owned vehicles, or DOVs) normally enter into leases of five months or less. This is because the medallion transfer tax is applicable to leases of five months or greater. The proposed long-term lease option would enable agents to recoup the transfer tax from the leasing driver.

In return, the proposed rules would end two practices that disfavor drivers who lease taxicabs. First, the proposed rules would prohibit owners and agents from adding charges to leases that extend the total cost to drivers above the long-term lease caps. And second, the proposed rules would provide that, in order to be a DOV that is eligible for the lease of a medallion only, a taxicab must be actually owned by the leasing driver. It has become common practice for the vehicle title to taxicabs known as “driver-owned vehicles” to be held by a person or entity other than the driver. The proposed rules would provide that the costs and benefits to the owner of a driver-owned vehicle would accrue only where the title to the vehicle is held by the driver. Finally, the proposed rules would apply all the requirements otherwise applicable to leases in terms of form and content, to long term leases.