

## **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 amended rules governing drivers of for-hire vehicles.**

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, 5<sup>th</sup> Floor, New York, New York 10006 on April 2, 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 March 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 31, 2010 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: 212-676-1135**  
**Fax: 212-676-1102**  
**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.

Section 1. It is hereby proposed to amend Title 35 of the Rules of the City of New York by adding a new chapter 5 thereto, to read as follows:

New Material is underlined.

# **CHAPTER 5**

# **FOR-HIRE DRIVERS**

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**§5-01 Scope of this Chapter**

- (a) To establish procedures for the licensing, monitoring and regulation of For-Hire Drivers.
- (b) To establish operating rules to protect customers and the public.
- (c) To establish appropriate penalties for the violation of these Rules.

**§5-02 Penalties**

- (a) Unlicensed Activity.
  - (1) Unlicensed Activity is the act of providing or advertising the provision of any Commission-regulated for-hire transportation service by:
    - (i) Any Licensee whose License is suspended, revoked, or expired and not yet renewed, or
    - (ii) Any person who does not hold a Valid License or Authorization from the Commission as a for hire driver, for the for hire vehicle, or for the for hire service, as applicable;
  - (2) Unlicensed Activity specifically includes the activities listed in §19-506 and §19-529 of the Administrative Code, and can subject the violator to the seizure and possible forfeiture of the vehicle involved.
- (b) Specific Penalties. If there are specific penalties for violating a Rule, they will be shown at the end of the Rule. The penalty section also states whether the violator must attend a Hearing.
- (c) Payment of Fines
  - (1) Fines are due within 30 days of the day the violator is found guilty of the violation.
  - (2) If fines are not paid by the close of business on the date due, the violator's License will be suspended until the fine is paid.
  - (3) If a Respondent has made a timely request for a copy of the Hearing recording (see §18-14(e) of these Rules), the time for payment of fines is extended to 21 days from the date the recording is issued.

**§5-03 Definitions Specific to this Chapter**

- (a) Applicant in this Chapter means an Applicant for an original or renewal For-Hire Driver's License.
- (b) Black Car is a Vehicle that affiliates with a Black Car Base.
- (c) Black Car Base is a For-Hire Base that operates as follows:
  - (1) All Black Car Vehicles are dispatched on a pre-arranged basis;
  - (2) All Black Car Vehicles are owned by franchisees of the Base or are members of a cooperative that operates the Base; and
  - (3) More than ninety percent (90%) of the Base's business is on a payment basis other than direct cash payment by a Passenger.
- (d) Critical Driver's Program is a Commission program that charges additional penalties to a Driver who accumulates a certain number of Department of Motor Vehicle points on his or her state driver's license within a certain amount of time.
- (e) Defensive Driving Course refers to a course in defensive driving given by a school, facility or agency approved by the Commission and certified by the New York State DMV.
- (f) Driver, in this chapter, means a For-Hire Driver.
- (g) For-Hire Base (or "Base") is the Commission-licensed business for dispatching For-Hire Vehicles and the physical location from which For-Hire Vehicles are dispatched; a For Hire Base can be any of the following:
  - (1) A Black Car Base,
  - (2) A Livery Base (or Base Station),
  - (3) A Luxury Limousine Base.
- (h) For-Hire Driver in this Chapter means a driver of a For-Hire Vehicle.
- (i) For-Hire Vehicle is a motor Vehicle Licensed by the Commission to carry Passengers For-Hire in the City, which:
  - (1) Has a seating capacity of 20 or fewer Passengers
  - (2) Has three or more doors;

- (3) Is not a Taxicab, a Commuter Van, or an authorized bus as defined by NYS law.
- (j) Issuing Jurisdiction is a county within New York State contiguous to New York City that issues its own approval to allow a vehicle within its jurisdiction to contract for hire and perform pre-arranged pick-ups and drop-offs of one or more Passengers.
- (k) License in this Chapter means a License to drive a For-Hire Vehicle.
- (l) Livery is a For-Hire Vehicle that is affiliated with a Livery Base Station.
- (m) Livery Base Station or “Base Station” is a For-Hire Base that operates as follows:
  - (1) All Livery Vehicles are dispatched from the Base Station on a pre-arranged basis;
  - (2) All Livery Vehicles are designed to carry fewer than six (6) Passengers;
  - (3) Passengers are charged for service on the basis of a flat rate, time, mileage, or zones;
- (n) A Luxury Limousine is a For-Hire Vehicle that is affiliated with a Luxury Limousine Base.
- (o) A Luxury Limousine Base is a For-Hire Base that operates as follows:
  - (1) All Luxury Limousines are dispatched from the Base by pre-arrangement;
  - (2) Luxury Limousine Vehicles have a seating capacity of 20 or fewer Passengers;
  - (3) More than ninety percent (90%) of its business is on a payment basis other than direct cash payment by a Passenger;
  - (4) Passengers are charged “garage to garage” service on the basis of a flat rate, time or mileage.
- (p) Qualified Jurisdiction is an Issuing Jurisdiction that meets the requirements for reciprocity described in §498 of the NYS Vehicle and Traffic Law.
- (q) Qualified Vehicle License (or “QVL”) is the license issued by a Qualified Jurisdiction to that jurisdiction’s vehicles authorizing them to provide pre-arranged, for-hire transportation within its jurisdiction.

- (r) Qualified Driver's License (or "QDL") is a license issued by a Qualified Jurisdiction to that jurisdiction's drivers authorizing them to operate an authorized vehicle to provide pre-arranged, for-hire transportation within its jurisdiction.
- (s) Reciprocity (or Reciprocal Recognition) means that:
  - (1) New York City For-Hire Vehicles and Drivers can do pickups or drop offs in Qualified Jurisdictions for trips ending or beginning in NYC, and
  - (2) Vehicles and drivers that are licensed to perform for-hire transportation by a Qualified Jurisdiction can do pickups or drop offs in NYC for trips ending or beginning in the Qualified Jurisdiction.
- (t) Vehicle, in this Chapter, refers to a For-Hire Vehicle.

#### **§5-04    Licensing – Requirements**

- (a) Reserved. Age.
- (b) Reserved. Identification.
- (c) Chauffeur's License. An Applicant must hold a Valid Chauffeur's License.
- (d) Reserved. Fitness for the Job.
- (e) Reserved. Speak and Understand English.
- (f) Reserved. Familiar with Geography.
- (g) Pass Drug Test.
  - (1) All Applicants for new For-Hire Driver's License, except New York City Police Officers, must be tested, at the Applicant's expense, for drugs or controlled substances.
  - (2) The Commission designates who can perform the drug test and will only designate an individual or entity that has a permit issued by the New York State Department of Health.
  - (3) If an Applicant tests positive for drugs or controlled substances, the Commission will deny the Applicant's license. This decision is final.
- (h) Fingerprinting for Determining Good Moral Character.
  - (1) An Applicant for a For-Hire Driver's License will be fingerprinted for the purpose of securing criminal history records from the New York State Division of Criminal Justice Services.



- (2) The criminal history of any Applicant, including a renewal Applicant, will be reviewed in a manner consistent with Article 23-A of the New York State Correction Law.
  - (3) The application of any Applicant will be denied, and the For-Hire Driver's License of any current holder will be revoked, following a conviction for any serious criminal offense (as described in §498.1(f) of the New York Vehicle and Traffic Law).
  - (4) The Applicant will pay any processing fee required by the State.
- (i) Agreement to Accept Legal Notices or Processes.
- (1) An Applicant must agree to accept service of any sort of notice or legal process issued by any agency of the City of New York upon the Applicant (Licensee) at the Applicant's Mailing Address.
  - (2) These official notices can be left with a member of the Applicant's family or any other person who resides with the Applicant at the Mailing Address.
- (j) Training.
- (1) Applicants must hold a certificate of completion for the required hours of instruction in a Defensive Driving Course dated within six months of the application date.
  - (2) All renewal Applicants must submit a certificate of completion from a Defensive Driving Course dated within three years of the date of the renewal application.

**§5-05 Licensing – Probationary Licenses**

- (a) Issuing Probationary Licenses.
- (1) Upon approval of an Applicant for a new For-Hire Driver's License the Commission will issue a Probationary License valid for one year.
  - (2) At the end of the one-year probationary period, the Commission will evaluate the Applicant and determine if renewing the License is appropriate.
  - (3) To make this decision, the Commission will consider the Applicant's driving record, any violation of the For-Hire Drivers Rules, or other evidence that suggests that the Driver no longer meets all requirements for a License.

- (b) Automatic Denial or Revocation.
- (1) The Commission will not issue a regular License following the probationary period, and can revoke a Probationary License at any time if any of the following occurs:
- (i) The Driver is convicted of a crime in any jurisdiction.
  - (ii) The Driver is convicted of driving while impaired by alcohol or drugs.
  - (iii) The Driver is convicted of refusing to submit to a breathalyzer or other chemical test.
  - (iv) The Driver is convicted of leaving the scene of an accident.
  - (v) The Driver accumulates eight or more points against his or her New York State Chauffeur's License or comparable license issued by his State of residence, the total of which will include points existing on the Driver's State license prior to his or her application for a License with the Commission.
  - (vi) The Driver is convicted of three or more moving violations.
  - (vii) The Driver is convicted of two speeding violations.
  - (viii) The Driver accumulated four or more points in accordance with the Commission's Program for Persistent Violators (See §5-27(b))
  - (ix) The Driver is convicted of two or more violations of:
    - A. Operating an unlicensed Vehicle (See §5-11(c))
    - B. Soliciting Passengers other than by prearrangement (See §5-19(a))
    - C. Picking up Passengers at a Taxi Stand (§5-19(b))
- (2) The Commission will consider the date the violation occurred, rather than the date of conviction, to determine if a violation occurred within the probationary period.

**§5-06 Licensing – Term of License**

- (a) New License. A new License will be issued as a Probationary License with a term of one year.

- (b) Renewal License. A License issued to a renewing Applicant will expire two years from the date on which the previous License expired.
- (c) Extensions. The Commission can extend the expiration date of a License once by up to 31 days. If an expiration date is extended, the required drug test must be taken and passed within 30 days before (and no later than) the extended expiration date.
- (d) Advancement. If a Licensee will not be available for drug testing during the 30 days before his or her License expires (or will be unavailable for any other reason), the Licensee may ask the Commission to move and reset the License expiration to an earlier date, provided that:
  - (1) A Licensee is in the second year of his or her License and has satisfactorily completed the required drug test for Licensees in the first year.
  - (2) Licensees make only one such request during the term of a License.
  - (3) The request is complete and accurate and submitted on the proper Commission form.
  - (4) The expiration date on a License that has had its original expiration date advanced to an earlier date at the request of the Licensee will be two years from the new expiration date granted by the Commission.

**§5-07     Licensing – Fees**

- (a) Fee for License. The fee for a For-Hire Driver's License will be \$60 annually.
- (b) When Fee is Paid. The fee for an original or renewal License must be paid at the time the application is filed.
- (c) No Refund if Application Denied. The Commission will not refund fees if it denies or disapproves the application.
- (d) Late Filing Fee. The Commission will charge a \$25 late filing fee for a late submittal, if it allows the application.
- (e) License Replacement Fee. The Commission will charge a fee of \$25 for each License it issues to replace a lost, mutilated or unreadable License.

**§5-08     Licensing – Process and Causes for Denial of License**

- (a) Reserved. Failure to Meet any of Above Requirements.

- (b) Material Misrepresentation or Falsification.
- (1) The Commission can deny an application for a License or renewal of a License if it finds that an Applicant has lied or made a material misrepresentation on the application.
  - (2) The Commission can also, after notice and hearing, revoke or suspend any License it has issued if it finds that an Applicant has lied or made a material misrepresentation on his or her application.

**§5-09 RESERVED (Licensing – Transfer of License)**

**§5-10 Licensing – Care and Use of License**

- (a) Loss or Theft of License. A Driver, within 24 hours (not counting holidays and weekends), must notify the Commission of the loss or theft of his For-Hire Driver’s License.

§5-10(a)	Fine: \$25	Appearance NOT REQUIRED
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- (b) Unreadable License. A Driver must immediately surrender any unreadable or unrecognizable For-Hire Driver's License to the Commission.

§5-10(b)	Fine: \$25	Appearance NOT REQUIRED
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- (c) No Alteration. A Driver must not alter in any way any portion of his For-Hire Driver’s License or the attached photograph.

§5-10(c)	Fine: \$50	Appearance NOT REQUIRED
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**§5-11 Comply with Laws – Unlicensed Activity Prohibited**

- (a) Driver Must Have Valid For-Hire Driver’s License.

- (1) A Driver must not operate a For-Hire Vehicle unless the Driver has a Valid For-Hire Drivers License and the Vehicle is affiliated with a Licensed Base.
- (2) The Commission considers any Driver who operates a For-Hire Vehicle after his or her License expires and before a renewal License is issued to be engaged in Unlicensed Activity.

§5-11(a)	Fine: First Violation: \$350 Second Violation: \$500 Third Violation in 36 months: Revocation.	Appearance REQUIRED
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- (b) Driver Must Have a Valid Chauffeur’s License.

- (1) A Driver must not operate a For-Hire Vehicle without a valid Chauffeur's License.

§5-11(b)	Fine: \$100 - \$350 and/or suspension up to 30 days; <u>Summary Suspension until compliance</u>	Appearance <u>REQUIRED</u>
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- (2) A Driver will immediately surrender his or her For-Hire Driver's License to the Commission upon the restriction, suspension or revocation of his Chauffeur's License.

- (c) For-Hire Vehicle Must be Licensed by Commission. A Driver must only operate a For-Hire Vehicle that has a Valid Commission License.

§5-11(c)	Fine: First Violation: \$350 Second Violation: \$500 Third Violation in 36 months: Revocation.	Appearance <u>REQUIRED</u>
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- (d) No Unauthorized Use of For-Hire Driver's License. A Driver must not permit another person to use his or her For-Hire Driver's License.

§5-11(d)	Fine: \$250	Appearance <u>NOT REQUIRED</u>
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**§5-12 Comply with Laws – Proper Conduct**

- (a) Bribery.

- (1) Avoid Appearance of Bribery. An Applicant or Licensee must not offer or give any gift, gratuity or thing of value to any employee, representative or member of the Commission or any other public servant.

§5-12(a)(1)	Fine: \$10,000 and revocation Points: 6	Appearance <u>REQUIRED</u>
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- (2) Do Not Offer Gift to Airport or Transportation Terminal Staff. A Licensee must not offer or give any gift, gratuity, or thing of value to anyone at the Port Authority of New York and New Jersey, LIRR, Metro-North, or any similar airport or other transportation terminal who is employed to do the following:

- (i) Ground transportation information services,
- (ii) Dispatching service,
- (iii) Security services,
- (iv) Traffic and parking control, or
- (v) Baggage handling.

- (3) Failure to Report Bribery. A Licensee must immediately report to the Commission any request or demand for a gift, gratuity or thing of value by any employee, representative or member of the Commission or any other public servant.

§5-12(a)(2) & (3)	Fine: \$1,000 up to revocation Points: 6	Appearance REQUIRED
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- (b) Fraud, Theft. While performing the duties and responsibilities of a Driver, a Licensee must not commit or attempt to commit, any act of fraud, misrepresentation or theft.

§5-12(b)	Fine: \$350-\$1,000 and/or suspension up to 60 days or revocation Points: 4	Appearance REQUIRED
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- (c) Willful Acts of Omission. While performing the duties and responsibilities of a Licensee, a Licensee must not deliberately fail to perform any act where this failure is against the best interests of the public although not specifically mentioned in these Rules.

§5-12(c)	Fine: \$150-\$350 and/or suspension up to 30 days or revocation Points: 3	Appearance REQUIRED
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- (d) Willful Acts of Commission. While performing the duties and responsibilities of a Licensee, a Licensee must not deliberately perform or attempt to perform any act that is against the best interests of the public although not specifically mentioned in these Rules.

§5-12(d)	Fine: \$150-\$350 and/or suspension up to 30 days or revocation Points: 3	Appearance REQUIRED
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- (e) Threats, Harassment, Abuse. While performing the duties and responsibilities of a Licensee, a Licensee must not threaten, harass, or abuse any person.

§5-12(e)	Fine: \$350-\$1,000 and/or suspension up to 30 days or revocation Points: 3	Appearance REQUIRED
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- (f) Use or Threat of Physical Force. While performing the duties and responsibilities of a Licensee or any act in connection with those duties, a Licensee must not use or attempt to use any physical force against a person.

§5-12(f)	Fine: \$500-\$1,500 and/or suspension up to 60 days or revocation Points: 4	Appearance REQUIRED
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- (g) Threat or Harm to Service Animal. A Licensee must not distract, harm or use physical force against or attempt to distract, harm or use physical force against a Service Animal accompanying a Person with a Disability.

§5-12(g)	Fine: \$500-1,500 and/or suspension up to 60 days or revocation Points: 4	Appearance REQUIRED
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- (h) Notice of Criminal Conviction.

- (1) A Licensee must notify the Commission in writing within 15 calendar days after any felony conviction of the Licensee.

§5-12(h)(1)	Fine: \$50 Points: 2	Appearance NOT REQUIRED
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- (2) Within 15 days after sentencing, Licensee must provide the Commission with a certified copy of the certificate of disposition issued by the clerk of the court.

§5-12(h)(2)	Fine: \$100	Appearance NOT REQUIRED
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- (i) Cooperate with the Commission.

- (1) A Driver must truthfully answer all questions and comply as directed with all communications, directives, and summonses from the Commission or its representatives.

- (2) Within 10 days following a request from the Commission, a Driver must produce any License or other document the Driver is required to have or be reasonably able to obtain.

§5-12(i)(1)&(2)	Fine: \$200 and suspension until compliance	Appearance REQUIRED
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- (3) A Driver must notify the Commission in person or by USPS within seven days (other than holidays and weekends) of any change of Mailing Address.

§5-12(i)(3)	Fine: \$50	Appearance NOT REQUIRED
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- (j) Cooperate with Law Enforcement.

- (1) A Licensee must cooperate with all law enforcement officers and authorized representatives of the Commission.

- (2) Cooperation includes, but is not limited to, providing his or her name, License number and any other document that is required to be in the Driver's possession.

§5-12(j)	Fine: \$15-\$150 Points: 2	Appearance <u>REQUIRED</u>
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(k) Courtesy. A Licensee will be courteous to Passengers.

§5-12(k)	Fine: \$150	Appearance <u>NOT REQUIRED</u>
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**§5-13 Comply with Laws – Traffic Laws**

(a) Compliance with Traffic Laws. A For-Hire Driver must comply with all applicable traffic laws, rules and regulations. The Commission will impose the following fines and penalties in addition to any fines and penalties imposed by the underlying law:

(1) Laws, rules or regulations governing stationary Vehicles.

§5-13(a)(1)	Fine: \$50	Appearance <u>NOT REQUIRED</u>
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(2) Laws, rules or regulations governing moving Vehicles, other than hazardous moving violations defined by paragraph (3) of this subdivision.

§5-13(a)(2)	Fine: \$150	Appearance <u>NOT REQUIRED</u>
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(3) Laws, rules or regulations governing moving Vehicles that involve hazardous moving violations defined as follows:

§5-13(a)(3)	Fine: \$250 Points: As listed below	Appearance <u>NOT REQUIRED</u>
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<b>Rule</b>	<b>VIOLATION</b>	<b>Points</b>
§ 5-13(a)(3)(i)	<u>1. SPEEDING</u>	
	<u>1 to 10 miles above posted speed limit</u>	<u>3</u>
	<u>11 to 20 miles above posted speed limit</u>	<u>4</u>
	<u>21 to 30 miles above posted speed limit</u>	<u>5</u>
	<u>31 to 40 miles above posted speed limit</u>	<u>6</u>
	<u>41 or more miles above speed limit</u>	<u>8</u>
§ 5-13(a)(3) (ii)	<u>2. Failing to stop for school bus</u>	<u>5</u>
§ 5-13(a)(3) (iii)	<u>3. Following too closely</u>	<u>4</u>
§ 5-13(a)(3) (iv)	<u>4. Inadequate brakes (own Vehicle)</u>	<u>4</u>
§ 5-13(a)(3) (v)	<u>5. Inadequate brakes (employer's Vehicle)</u>	<u>2</u>
§ 5-13(a)(3) (vi)	<u>6. Failing to yield right of way</u>	<u>3</u>
§ 5-13(a)(3) (vii)	<u>7. Traffic signal violation</u>	<u>3</u>
§ 5-13(a)(3) (viii)	<u>8. Stop sign violation</u>	<u>3</u>
§ 5-13(a)(3) (ix)	<u>9. Yield sign violation</u>	<u>3</u>
§ 5-13(a)(3) (x)	<u>10. Railroad crossing violation</u>	<u>3</u>
§ 5-13(a)(3) (xi)	<u>11. Improper passing</u>	<u>3</u>
§ 5-13(a)(3) (xii)	<u>12. Unsafe lane change</u>	<u>3</u>
§ 5-13(a)(3) (xiii)	<u>13. Driving left of center</u>	<u>3</u>
§ 5-13(a)(3) (xiv)	<u>14. Driving in wrong direction</u>	<u>3</u>
§ 5-13(a)(3) (xv)	<u>15. Leaving scene of an accident involving property damage or injury to animal</u>	<u>3</u>



(4) Report Before Leaving Scene. Drivers know or should know when a traffic accident involving the Driver's Vehicle has resulted in personal injury to another or to another's property; when this happens, the Driver must stop and must:

- (i) Show his or her Chauffeur's License, For-Hire Driver's License, and Vehicle License to the other party involved in the incident.
- (ii) Give the other involved party his or her name, Chauffeur's License number, For-Hire Driver's number, and Vehicle License number, as well as the name of the Vehicle's insurance carrier and the insurance policy number.

§5-13(a)(4)	Fine: \$25 - \$250 and/or suspension up to 30 days. Points: 4	Appearance <u>REQUIRED</u>
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(5) Payment of Traffic Judgments. The holder of a Driver's License issued under this chapter must satisfy any outstanding judgment and pay any civil penalty owed for a traffic violation in a Qualified Jurisdiction or a violation of the regulations of a Qualified Jurisdiction.

§5-13(a)(5)	Fine: Suspension until satisfaction or payment.	Appearance <u>NOT REQUIRED</u>
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**§5-14     Operations – Passenger and Driver Safety**

(a) Reckless Driving Rule. A Driver must not operate a For-Hire Vehicle in a manner or speed that unreasonably endangers users of other Vehicles, pedestrians or the Passengers.

§5-14(a)	Fine: \$350 - \$1,000 and/or suspension up to 30 days or revocation if Driver is found guilty of <u>having violated this rule more than 3 times within an 18 month period.</u> Points: 4	Appearance <u>REQUIRED</u>
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(b) Driving While Impaired.

- (1) A Driver must not operate a For-Hire Vehicle while his or her driving ability is impaired by intoxicating liquor (regardless of its alcoholic content), drugs or other controlled substances.
- (2) A Driver must not drive or occupy his or her For-Hire Vehicle for at least six hours after consuming any intoxicating liquor regardless of its alcoholic content, or consuming any drugs or other controlled substances.

§5-14(b)	Fine: Revocation	Appearance <u>REQUIRED</u>
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- (c) Drug Testing “For Cause.” If the Commission has a reasonable suspicion that a Driver has used a drug or controlled substance that makes him or her unfit to operate a For-Hire Vehicle safely, the Commission can direct the Driver to be tested, at the Driver’s expense, by a Commission-approved person, licensed by the NYS Department of Health, and the Driver must comply.

§5-14(c)	Fine: Suspension until compliance or revocation of License	Appearance NOT REQUIRED
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- (d) Annual Drug Testing.

- (1) All Drivers except those who are NYC Police Officers, must be tested annually, at the Driver’s expense, for drugs or controlled substances.
- (2) For Drivers in the first year of a two-year License, the testing must occur no sooner than 30 days before the one-year anniversary date of the License, and no later than the one-year anniversary date.

§5-14(d)(1)&(2)	Fine: Summary Suspension until compliance or revocation. \$200 if compliance is more than 30 days after the deadline	Appearance NOT REQUIRED
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- (3) For Drivers in the second year of a two-year License, the testing must occur no sooner than 30 days before the License expiration date, and in no case after the expiration date.

§5-14(d)(3)	If the Driver fails to be tested within this time period, his or her License will expire and will not be renewed	Appearance NOT REQUIRED
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- (e) Results of Drug Test. Licensee must pass every drug test, whether “for cause” or annual.

§5-14(e)	Fine: License may be revoked after hearing	Appearance NOT REQUIRED
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- (f) Driving While Injured.

- (1) If a Driver files for Workers’ Compensation benefits claiming an injury that prevents the Driver from working as a For-Hire Driver, the Driver must stop driving as a For-Hire Driver and return his or her Drivers License to the Commission.
- (2) The Commission will return the Drivers License when the Driver gives the Commission documents proving that his or her Workers’ Compensation benefits have stopped because he or she has recovered from the injury.

§5-14(f)	Fine: \$75 - \$150	Appearance REQUIRED
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**§5-15 Operations – General Rules During Operation of Vehicle**

- (a) No Weapons. A Driver, while operating a For-Hire Vehicle, must not, without the Chairperson's written authorization, have in his or her possession or in the Vehicle, a weapon as defined by these Rules, or any other instrument that is intended to be used as a weapon.

§5-15(a)	Revocation	Appearance <u>REQUIRED</u>
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- (b) **Reserved. Driver Neat & Clean.**

- (c) No Smoking. A Driver must not smoke in a For-Hire Vehicle.

§5-15(c)	Fine: \$150 for first and subsequent offenses within a 12-month period	Appearance <u>NOT REQUIRED</u>
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- (d) **Reserved. No Locking Rear Doors.**

- (e) No Phone Use. A Driver must not use a telephone or cell phone while operating a For-Hire Vehicle, unless the Vehicle is lawfully standing or parked.

§5-15(e)	Fine: \$200 Points: 2	Appearance <u>NOT REQUIRED</u>
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- (f) **Reserved. Have E-ZPass.**

- (g) No Overcharging Passenger.

- (1) A Driver must not charge or attempt to charge a fare above the pre-approved rate quoted by the dispatcher. A Driver must not impose or attempt to impose any additional charge for transporting a Person with a Disability, a service animal accompanying a Person with a Disability or a wheelchair or other mobility aid.

- (2) No Driver is permitted to ask or require a Passenger to tip.

§5-15(g)	Fine: \$100-250 except that the penalty for soliciting a tip shall be \$50, and restitution of overcharge to the Passenger	Appearance <u>REQUIRED</u>
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- (h) **Reserved. Non-Paying Customers.**

- (i) **Reserved. No Overloading Vehicle.**

- (j) Use of Front Seat.

- (1) A Driver must permit a Passenger who is unable to enter or ride in the rear seat of a For-Hire Vehicle to occupy the front seat alongside the Driver.

§5-15(j)(1)	Fine: \$75	Appearance NOT REQUIRED
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- (2) If a Passenger's luggage, wheelchair, crutches, three-wheeled motorized scooter, other mobility aid or other property occupies the rear seat of the For-Hire Vehicle, the Passenger must be permitted to occupy the front seat alongside the Driver.

§5-15(j)(2)	Fine: \$25	Appearance NOT REQUIRED
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- (k) Luggage. Upon request of a Passenger, the Driver must load or unload a Passenger's luggage, wheelchair, crutches or other property in or from the Vehicle's interior or trunk compartment, and must secure such compartment.

§5-15(k)	Fine: \$ 50	Appearance NOT REQUIRED
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- (l) Reserved. No Property.
- (m) Reserved. No 'Marketing' to Passengers.
- (n) Reserved. Handling Passengers with Infectious Diseases.
- (o) Parking. While stopped at its affiliated Base:

- (1) A Livery Driver must use the off-street parking facilities provided by the Base Station Owner and must comply with all applicable traffic and parking regulations.

§5-15(o)(1)	Fine: \$50	Appearance NOT REQUIRED
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- (2) A Black Car or Luxury Limousine Driver must comply with all applicable traffic and parking regulations.

§5-15(o)(2)	Fine: \$50	Appearance NOT REQUIRED
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- (p) No Nuisance Behavior. A Driver while stopped at the base with which the Driver's Vehicle is affiliated must not create a nuisance such as:

- (1) Engaging in littering,
- (2) Playing of loud audio material, or
- (3) Horn honking.

§5-15(p)	Fine: \$50	Appearance NOT REQUIRED
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- (q) No Requiring Ride-Sharing. A Driver of a For-Hire Vehicle must not require that any prospective Passenger share a ride with another prospective Passenger.

§5-15(q)	Fine: \$50	Appearance NOT REQUIRED
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**§5-16 Operations – Comply with Reasonable Passenger Requests**

- (a) Reserved. Shortest Route Absent Reasonable Passenger Request.
- (b) Reserved. Request to Change Destination or Terminate.
- (c) Reserved. Request for Driver’s Name, License Number.
- (d) Reserved. Request for Receipt.
- (e) Passenger Requests on Audio.
  - (1) All audio equipment controlled by the Driver must be turned on or off at the request of the Passenger.
  - (2) The Passenger shall have the right to select what is played on the audio equipment.
  - (3) Whether or not the Vehicle is hired, an audio device must be played at normal volume only, and must comply with all noise laws and regulations.

§5-16(e)	Fine: \$50	Appearance NOT REQUIRED
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- (f) Passenger Requests on Air Conditioning. A Driver must turn on or off heating or air-conditioning equipment at the request of the Passenger.

§5-16(f)	Fine: \$50	Appearance NOT REQUIRED
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**§5-17 RESERVED (Operations – Method of Payment)**

**§5-18 RESERVED (Operations – Lost Property)**

**§5-19 Operations – Passenger and Solicitation and Engagement**

- (a) Limitations on Driver Solicitation of Passengers. A Driver must not solicit or pick up Passengers other than by prearrangement through a licensed Base, or dispatch of an Accessible Vehicle.

§5-19(a)	Fine: First Violation: \$350 Second Violation in 24 months: \$500 Third Violation in 36 months: Revocation	Appearance REQUIRED
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- (b) Taxi Stands. A For-Hire Driver must not pick up a Passenger at an authorized taxi stand.

§5-19(b)	Fine: First Violation: \$350 Second Violation in 24 months: \$500 Third Violation in 36 months: Revocation Points: 2	Appearance REQUIRED
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**§5-20 Operations – Refusing Passengers**

(a) Must Not Refuse Passengers.

- (1) A Driver who has been dispatched must not refuse, by words, gestures or any other means to provide transportation to a person who has prearranged the trip with a destination within the City of New York, the counties of Westchester or Nassau or Newark Airport.
- (2) A Driver who has been dispatched must not refuse, by words, gestures or any other means to provide transportation to a Person with a Disability or any Service Animal accompanying the person.

<u>§5-20(a)(1)&amp;(2)</u>	Fine: First Violation: \$200- \$350 Second Violation within 36 months: \$350 - \$500	Appearance <u>REQUIRED</u>
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- (3) A Driver must not refuse to transport any Person with a Disability or any guide dog accompanying such person.

<u>§5-20(a)(3)</u>	Fine: \$5,000 and revocation	Appearance <u>REQUIRED</u>
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(b) Justification for Refusal. Justifiable grounds for refusing transportation services are the following:

- (1) The Passenger is carrying, or is in possession of any article, package, case or container that the Driver reasonably believes will cause damage to the interior of the For-Hire Vehicle, impair its efficient operation, or stain or foul the interior. This does not include wheelchairs or other mobility aids used by disabled persons.
- (2) The Passenger is escorted or accompanied by an animal that is not properly or adequately secured in a kennel case or other suitable container. This provision will not apply to service animals accompanying People with Disabilities.
- (3) The Passenger is intoxicated or disorderly. (Caution: Drivers must not refuse service solely because a disability results in annoying, offensive, or inconvenient behavior.)
- (4) If the Driver has asked the Passenger to stop smoking in the Vehicle and the Passenger has refused to stop, the Driver may discharge the Passenger. The Driver must, however, discharge the Passenger at a safe location.

(c) Attendants for Disabled Passengers. A Driver may not require a Person with a Disability to be accompanied by an attendant. However, if a Person with a Disability is accompanied by an attendant, a Driver will not impose or attempt to impose any additional fare charges for transporting the attendant.

<u>§5-20(c)</u>	<u>Fine: \$100-\$250 and order restitution of any overcharge to the Passenger</u>	<u>Appearance REQUIRED</u>
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- (d) Luggage and Mobility Aids. A Driver must not refuse to transport a Passenger’s luggage, wheelchair, crutches, other mobility aid or other property.

<u>§5-20(d)</u>	<u>Fine: \$200-\$350 Points: 2</u>	<u>Appearance REQUIRED</u>
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**§5-21 Operations – Rules for Drivers from Qualified Jurisdictions**

- (a) Eligibility for Reciprocal Recognition. A driver holding a Valid Qualified Jurisdiction driver’s license (a QDL) will be eligible for Reciprocity, provided that the driver meets all of the following requirements:

- (1) The driver is operating a Vehicle that is licensed to operate for-hire by a Qualified Jurisdiction (see Chapter 9A, §9-05).

<u>§5-21(a)(1)</u>	<u>Fine: \$350</u>	<u>Appearance NOT REQUIRED</u>
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- (2) The driver holds a Valid Chauffeur’s License.

<u>§5-21(a)(2)</u>	<u>Fine: \$100</u>	<u>Appearance NOT REQUIRED</u>
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- (3) While operating within New York City, the Valid Chauffeur’s License must be displayed on request or be posted within the Vehicle.

<u>§5-21(a)(3)</u>	<u>Fine: \$350</u>	<u>Appearance NOT REQUIRED</u>
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- (4) The driver maintains and completes the Trip Record required and described in subdivision (e), below.

<u>§5-21(a)(4)</u>	<u>Fine: \$300</u>	<u>Appearance NOT REQUIRED</u>
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- (5) A driver providing For-Hire transportation in New York City under Reciprocal Recognition must comply with the Rules of this chapter while operating within New York City as if the driver were licensed by the Commission.

- (b) Privileges of Reciprocal Recognition. A driver who meets the requirements above for Reciprocity will be allowed, without any License issued by or any fee paid to the Commission, to do the following:

- (1) Pick up Passengers in the driver’s Qualified Jurisdiction for travel to or through New York City.
- (2) Pick up Passengers in New York City for travel to the driver’s Qualified Jurisdiction.

- (3) When transporting Passengers between the jurisdictions (as described in subdivisions(1) or (2) above), temporarily discharge and pick up such Passengers within New York City; provided, however, that all the stops must occur within 24 hours of the initial pick up of the Passengers.
  - (4) Transit through New York City for a trip beginning and ending outside New York City.
- (c) *Prohibited Activity.* A driver must NOT provide transportation for hire between two points wholly within New York City unless both vehicle and driver are licensed by the Commission.
- (d) *Unlicensed Activity.* A driver will be engaged in Unlicensed Activity if he or she:
- (1) Fails to have the licenses required or is not eligible for Reciprocity under subdivision (a) of this section.
  - (2) Engages in the prohibited activity described in subdivision (c) of this section.
- (e) *Qualified Jurisdiction Trip Record.*
- (1) A record of each trip between New York City and a Qualified Jurisdiction must be made prior to the commencement of the trip and recorded on a Trip Record carried in the Vehicle.
  - (2) The Trip Record must be kept for a period of no less than one year after the trip.
  - (3) The record of each trip must be written legibly in ink and include the following information:
    - (i) The Passenger's name or other identifier.
    - (ii) The time of scheduled pick-up.
    - (iii) The location where the Passenger is scheduled to be picked up.
    - (iv) The location of any intermediate stops between the original pick-up location and the final destination.
    - (v) The Passenger's final destination.
    - (vi) At the completion of the trip, the time of completion shall be added to the record.



- (4) The Trip Record must be kept in the Vehicle during any trip between New York City and a Qualified Jurisdiction, including a trip through either New York City or a Qualified Jurisdiction.
- (5) The Trip Record must be presented for inspection on request to any police officer or peace officer acting pursuant to his or her special duties or other person authorized by the Commission or by the Qualified Jurisdiction.
- (6) Failure to present a properly maintained Trip Record when requested by an authorized person will be presumptive evidence of Unlicensed Activity.

**§5-22 Vehicle – Operating Conditions**

- (a) *Reserved. 3-Minute Idle.*
- (b) *Reserved. Inspect Condition.*
- (c) *Reserved. No On-street Maintenance Other than Emergency.*
- (d) *Clean Interior.* A Driver during his or her work shift must keep the Vehicle’s interior clean and scent free.

<u>§5-22(d)</u>	<u>Fine: \$50</u>	<u>Appearance NOT REQUIRED</u>
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- (e) *Reserved. Exterior Clean and Identification Visible.*
- (f) *Reserved. No Unauthorized Equipment.*
- (g) *Reserved. No Unauthorized Signing.*

**§5-23 Vehicle – Items Required to be in the Vehicle During Operation**

- (a) *Licenses and Certificates.* A Driver must not operate a For-Hire Vehicle without the following:
  - (1) On the right visor, on top of the right side of the dashboard or in the glove compartment:
    - (i) The certificate of registration or a legible copy of it; and
    - (ii) The insurance card or a legible copy of it.
  - (2) In a protective holder attached to the back of the Driver’s seat in the Vehicle:
    - (i) The For-Hire Vehicle Driver’s license of the Driver; and

- (ii) The For-Hire Vehicle License.
- (3) Exception for Black Cars and Luxury Limousines.
  - (i) Black Cars and Luxury Limousines must comply with all requirements of this subdivision (a) except that these Vehicles will not be required to have a protective holder mounted behind the Driver’s seat to display:
    - A. The For-Hire Vehicle Driver’s License; and
    - B. The For-Hire Vehicle License.
  - (ii) Those items must, however, be displayed in the Vehicle in a way so as to be clearly visible from the Passenger seat and available for inspection by the Passenger upon request.

<u>§5-23(a)(1)-(3)</u>	<u>Fine: \$50 for each violation of this rule; however, no fine for a violation of this rule will exceed \$100</u> <u>Points: 2</u>	<u>Appearance REQUIRED</u>
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- (b) Trip Record. If the For-Hire Vehicle is used for providing pre-arranged transportation for hire between the City of New York and a Qualified Jurisdiction, a Trip Record, as described in §5-21(e), must be carried in the Vehicle.

**§5-24 RESERVED (Vehicle – Trip Records)**

**§5-25 RESERVED (Vehicle – Electronic Trip Record System)**

**§5-26 RESERVED (Vehicle – Miscellaneous)**

**§5-27 Special Driver Penalty Programs**

- (a) Critical Driver’s Program (“Points” in this Section refers to points assessed by the Department of Motor Vehicles).
  - (1) License Suspension. If, within a 15-month period, a Driver accumulates six or more points on his or her driver’s license (whether issued by New York or another state), the Commission will suspend the Driver’s For-Hire Driver’s License for 30 days.
  - (2) License Revocation. If, within a 15-month period, a Driver accumulates 10 or more points on his or her driver’s license (whether issued by New York or another state), the Commission will revoke the Driver’s For-Hire Driver’s License.

- (3) Review of Driver Fitness. The Commission can at any time review the fitness of a Driver to continue to be Licensed following any moving violation, accident, or other driving related incident and can seek to impose other, additional, and/or more severe penalties or take any other action permitted under these Rules.
- (4) 15-Month Period. The Commission will calculate the 15-month period by counting backwards 15 months from the date of the most recent violation carrying points.
- (5) Date of Point Accumulation. For the purpose of this rule, points assigned by the Department of Motor Vehicles for any violation will be counted as of the date the violation occurred.
- (6) Multiple Points from a Single Incident. For a Driver who has been found guilty of multiple violations arising from a single incident, the Commission will consider the Driver guilty of the single violation with the highest point total for purposes of this section.
- (7) Point Reduction for Voluntary Course Completion.
  - (i) Before suspending or revoking a Driver's License, the Commission will deduct two points from the total points of any Licensee who voluntarily attends and satisfactorily completes a motor Vehicle accident prevention course approved by the Commission.
  - (ii) The Driver must furnish the Commission with proof of when the course was taken and that the course was satisfactorily completed before the Commission will reduce the Driver's point total.
  - (iii) If the Commission has already suspended or revoked the Driver's License before the Driver completes the course, the point reduction will not change the Commission's decision.
  - (iv) If the Driver completed the course on or after September 1, 1999, the Commission will not reduce total points more than once in any 18-month period.
- (b) Program for Persistent Violators of For-Hire Drivers' Rules ("Points" in this Section refers to points assessed by the Commission).
  - (1) Reserved – Required Remedial Course Attendance for Persistent Violators.
  - (2) Revocation – Points and Time Periods.

- (i) The Commission will add one point to the For-Hire Driver's License of any Driver who has been found guilty of three or more violations within a 15-month period.
  - (ii) Any Driver who has accumulated six or more Commission-issued points against his or her For-Hire Driver's License within a 15-month period and whose License has not been revoked will have his or her License suspended for 30 days.
  - (iii) The Commission will revoke the License of any Driver who has accumulated ten or more points against his or her For-Hire Driver's License within a 15-month period.
- (3) *Multiple Violations from a Single Incident.* For a Driver who has been found guilty of multiple violations arising from a single incident, the Commission will consider the Driver guilty of the single violation with the highest point total for purposes of this section.
- (4) *More Severe Penalties at Discretion of Commission.* The Commission can impose more severe or additional penalties to any penalties stated in this section.
- (5) *Hearing Process and Imposition of Penalties.*
- (i) The Commission will impose penalties described in this section following the hearing at which the Driver is found in violation of rules that bring his accumulated point total to the level that triggers these penalties.
  - (ii) Persistent violator penalties will be in addition to those penalties specifically listed in the Rules.
- (6) *Point Reduction for Voluntary Course Completion.*
- (i) Before suspending or revoking a Driver's License, the Commission will deduct two points from the total points of any Licensee who voluntarily attends and satisfactorily completes a remedial or refresher course approved by the Commission.
  - (ii) The Driver must furnish the Commission with proof of when the course was taken and that the course was satisfactorily completed before the Commission will reduce the Driver's point total.

- (iii) If the Commission has already suspended or revoked the Driver's License before the Driver completes the course, the point reduction will not change the Commission's decision.
  - (iv) If the Driver completed the course on or after September 1, 1999, the Commission will not reduce total points more than once in any 18-month period.
- (7) It will be an affirmative defense that the act that formed the basis for the violation was beyond the control and influence of the Driver.

### **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 as follows:

Current Rule Chapters revised in this rule-making	Proposed Rule Chapters
Chapter 6 (in part), FHV Drivers Rules	Chapter 5, For-Hire Drivers

The proposed rules make several substantive changes to the provisions of current rules governing commuter van drivers. Specifically, the proposed rules:

- Eliminate as obsolete phase-in provisions which accompanied changes to the drug test rules three years ago.
- To fully incorporate the provisions of Local Law 16 of 2008, the penalty provisions have been amended to reflect that fines are stayed for thirty days, and further pending decision of a timely-filed appeal.