

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 (“TLC”) is considering increasing the penalties for illegal street hails and similar unlawful activities.

When and where is the Hearing? The Commission will hold a public hearing on the proposed rule. The public hearing will take place at 9:00 a.m. on Thursday, June 21, 2012. The hearing will be in the Commission hearing room at 33 Beaver Street, 19th Floor, New York, NY 10004.

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 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 21, 2012 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 18, 2012.

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 18, 2012.

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, 22nd Floor, New York, NY 10004.

What authorizes the Commission to make this rule? Section 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 proposed rule was not anticipated.

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 Rules

These proposed rules are authorized by Section 2303 of the Charter and Sections 19-503, 19-506 and 19-507 of the New York City Administrative Code. The proposed rules amend the Taxi and Limousine Commission’s penalties for illegal street hails, unlicensed activity, and other unlawful activities. These proposed amendments to the penalties were made after considering comments from TLC Commissioners, industry representatives, and other members of the public, which called for more stringent enforcement measures.

The proposed rule changes also create consistent penalties for violations of rules committed by drivers, vehicle owners, and bases in the traditional for-hire vehicle industry and the Street Hail Livery industry.

The proposed rule changes to title 35 of the Rules of the City of New York are as follows:

- Amendment to § 59B-23(f) to modify the penalties for Street Hail Livery Base owners who dispatch a Street Hail Livery for a pre-arranged trip originating in the Pre-arranged Exclusionary Zone.
- Amendment to § 55-19(a) to modify the penalties for drivers of traditional for-hire vehicles who commit illegal street hails.
- Amendment to § 59A-25(a) to modify the penalties for owners of traditional for-hire vehicles who allow the vehicle to be used for illegal street-hails.
- Amendments to create a fixed penalty system for Street Hail Livery Licensees (§ 82-12(c)), base owners (§ 59B-11(e)), traditional for-hire vehicle drivers (§ 55-11(h)), and for-hire vehicle owners (§ 59A-11(e)) who hold themselves out to the public as a for-hire service or as a “taxi,” “Street Hail Livery,” “Taxicab” or “hack” service without a current License issued by the Commission for that activity:

New material is underlined.

[Material inside brackets indicates deleted material.]

Section 1. Section 55-11 of Title 35 of the Rules of the City of New York is amended by adding a new subdivision (e) to read as follows:

(e) Advertising of Unlicensed Service. A Driver must not operate any vehicle as a for-hire service or as a “taxi,” “Street Hail Livery,” “Taxicab” or “hack” service without a current License issued by the Commission for that Activity.

<u>§55-11(e)</u>	<u>Fine: First Violation: \$500 and when local law so authorizes, suspension;</u> <u>Second Violation in 24 months: \$750 and when local law so</u>	<u>Appearance REQUIRED</u>
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	authorizes, suspension; <u>Third Violation within 120 months: Revocation, when local law so authorizes.</u>	
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§2. The penalty for subdivision (a) of Section 55-19 of Title 35 of the Rules of the City of New York is amended to read as follows:

§55-19(a)	Fine: First Violation: [\$350] <u>\$500 and suspension, when local law so authorizes;</u> Second Violation in 24 months: [\$500] <u>\$750, when local law so authorizes, and 30-day suspension;</u> Third Violation in [36] <u>120</u> months: <u>Revocation, when local law so authorizes</u>	Appearance REQUIRED
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§3. The title of Section 59A-11 of Title 35 of the Rules of the City of New York is amended, and a new subdivision (h) is added, to read as follows:

§59A-11 Compliance with Law- [No] Unlicensed Activity Prohibited

(h) Advertising of Unlicensed Service. No vehicle will be operated for-hire or as a “taxi,” “Street Hail Livery,” “Taxicab” or “hack” service without a current License issued by the Commission for that Activity.

§59A-11(h)	Fine: First Violation: <u>\$500 and when local law so authorizes, suspension;</u> Second Violation in 24 months: <u>\$750 and when local law so authorizes, suspension;</u> Third Violation within 120 months: <u>Revocation, when local law so authorizes</u>	Appearance REQUIRED
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§4. Subdivision (a) of Section 59A-25 of Title 35 of the Rules of the City of New York is amended to read as follows:

§ 59A-25 Operations- Miscellaneous Operating Requirements

(a) *Passenger Trips by Pre-Arrangement Only.*

- (1) No For-Hire Vehicle [Owner will allow Owner’s Vehicle(s) to] will transport Passengers for hire other than through pre-arrangement with a Base licensed by the Commission.
- (2) A For-Hire Vehicle Owner will be liable for penalties for any violation of this section.

§59A-25(a)	[Vehicle: during any license term, \$100 for the first violation during such term, with the penalty increasing by \$100 for each subsequent violation up to a maximum of \$10,000.] Fine: First Violation: <u>\$500 and when local law so authorizes,</u>	Appearance REQUIRED
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	<u>suspension;</u> <u>Second Violation in 24 months: \$750 and when local law so authorizes, suspension;</u> <u>Third Violation in 120 months: Revocation, when local law so authorizes</u>	
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§5. Subdivision (e) of Section 59B-11 of Title 35 of the Rules of the City of New York is amended to read as follows:

Advertising of Unlicensed [For-Hire] Service. A base owner must not hold him or herself out to the public as a for-hire service or as a “taxi,” “Street Hail Livery,” “Taxicab” or “hack” service without a current License issued by the Commission for that activity. “For-Hire” service includes Livery, Black Car, or Luxury Limousine service.

§59B-11(e)	<u>Fine: [\$350 for the first violation;] First Violation: \$500 and when local law so authorizes, suspension;</u> <u>[\$500 for the second violation;] Second Violation in 24 months: \$750 and when local law so authorizes, suspension;</u> <u>[revocation for the third violation within 36 months] Third Violation within 120 months: Revocation, when local law so authorizes</u>	Appearance REQUIRED
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§6. The penalty for subdivision (f) of Section 59B-23 of Title 35 of the Rules of the City of New York is amended to read as follows:

§59B-23(f)	<u>Fine: [\$500]</u> <u>First violation: \$1000</u> <u>Second violation in 24 months: \$2000</u> <u>Third violation in 36 months: 30 day suspension</u>	Appearance NOT REQUIRED
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§7. The penalty for subdivision (c) of Section 82-12 of Title 35 of the Rules of the City of New York is amended to read as follows:

§82-12(c)	<u>[Fine: \$ 1,500 and/or suspension up to 30 days]</u> <u>Fine: First Violation: \$500 and when local law so authorizes, suspension;</u> <u>Second Violation in 24 months: \$750 and when local law so authorizes, suspension;</u> <u>Third Violation in 120 months: Revocation, when local law so authorizes.</u>	Appearance REQUIRED
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**NEW YORK CITY LAW DEPARTMENT
DIVISION OF LEGAL COUNSEL
100 CHURCH STREET
NEW YORK, NY 10007
212-788-1087**

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

RULE TITLE: Amendment of Penalties for Illegal Street Hails

REFERENCE NUMBER: 2012 RG 043

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 16, 2012

**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 Penalties for Illegal Street Hails

REFERENCE NUMBER: TLC-32

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 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

May 16, 2012
Date