

## 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 amendments to its rules to reflect technical considerations identified by TLC staff and in order to implement recent legislation passed by the New York City Council.

**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, September 20, 2012. The hearing will be in the Commission hearing room at 33 Beaver Street, 19<sup>th</sup> 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 – 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 September 20, 2012 at 10:00 a.m. You may speak for up to three minutes.

**Is there a deadline to submit written comments?** Yes, you must submit written comments by September 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, September 13, 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, 22<sup>nd</sup> 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 these proposed rules. These proposed rules were not included in the Commission’s regulatory agenda for this Fiscal Year because the need for the proposed rule was not yet identified.

**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 and 19-506 of the New York City Administrative Code. The proposed rules seek to amend the Taxi and Limousine Commission's rules in order to implement recent legislation passed by the New York City Council, to increase penalties for illegal activities, and to address other technical considerations that were identified by TLC staff.

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

- Amendments to implement Local Law 36 of 2011, which prohibits the facilitation of sex trafficking with a vehicle;
- Amendments to implement Local Law 32 of 2012, which increases the penalties for unlicensed activity and other unlawful conduct;
- Amendments to increase the penalties for failure to comply with TLC safety standards;
- Amendments to TLC licensing requirements and standards;
- Amendments to clarify TLC's drug testing rules;
- Amendments to the Owner Must Drive Rule;
- Amendment to TPEP specifications for Hybrid and Clean-Air Taxicabs that do not require a partition.
- Amendments to require For Hire Vehicle Owners to maintain and provide the Commission with a valid email address.
- Amendments to taxicab specifications, requiring all taxicabs to be fitted with operable rear windows.

New material is underlined.

[Material inside brackets indicates deleted material.]

Section 1. Section 51-03 of Title 35 of the Rules of the City of New York is amended to add the definitions of Continuing Sex Trafficking Awareness Training, Facilitate Sex Trafficking with a Vehicle, and Sex Trafficking Awareness Training to read as follows:

**Continuing Sex Trafficking Awareness Training** refers to written materials developed and approved by the Commission that meet the requirements of subdivision q of Section 19-505 of the Administrative Code.

**Facilitate Sex Trafficking with a Vehicle** means (1) conviction of any of the following crimes set forth in the New York State penal law: promoting prostitution in the third degree; promoting prostitution in the second degree; promoting prostitution in the first degree; sex trafficking; or compelling prostitution, and (2) using a vehicle licensed by the Commission to commit such a crime.

Sex Trafficking Awareness Training refers to a training course developed and approved by the Commission that meets the requirements of subdivision q of Section 19-505 of the Administrative Code.

§2. Section 54-04(k)(1) of Title 35 of the Rules of the City of New York is amended and new subdivision (6) is added to read as follows:

(k) *Training.* The Commission requires that Applicants for a new License pass all prescribed tests, both oral and written, as administered by the Commission or at its direction.

(1) *Defensive Driving Course.* Applicants must hold a certificate of completion for the required hours of instruction in a Defensive Driving Course [dated within six months prior to the application date].

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(6) Sex Trafficking Awareness Training.

(i) Beginning December 1, 2012, all Applicants, including Applicants for renewal licenses, must do all of the following:

A. Complete Sex Trafficking Awareness Training, and

B. Certify to the Commission as part of his or her application that he or she has completed such training.

(ii) For any Applicant applying for a License on or after December 1, 2012, completion of Sex Trafficking Awareness Training and certification of completion are conditions for issuance of a license.

(iii) Exception for Applicants who have completed Sex Trafficking Awareness Training.

Beginning December 1, 2012, Applicants who have previously completed the Sex Trafficking Awareness Training course at least once and have certified that they have done so as required by sections (i) and (ii) of this section, are not required to do so again, provided that they do all of the following:

A. The Applicant must obtain and review the Continuing Sex Trafficking Awareness Training materials approved by the Commission, and

B. The Applicant must certify to the Commission as part of his or her application that he or she has obtained and reviewed Continuing Sex Trafficking Awareness Training material provided by the Commission.

C. For applicants who qualify to use this exception, review of the written Continuing Sex Trafficking Awareness Training materials and certification of obtaining and review of such materials are conditions for issuance of a license.

§3. Section 54-04(m) of Title 35 of the Rules of the City of New York is amended to read as follows:

(m) *Continuing Training Requirement.* All renewal Applicants are required to attend and complete a Defensive Driving Course at least every three years. No Taxicab Driver’s License will be renewed unless the Applicant submits a certificate of completion of the Defensive Driving Course from an authorized provider dated less than three years prior to the date of the renewal application.

§4. Section 54-07(f) of Title 35 of the Rules of the City of New York is amended to read as follows:

(f) *Refresher Training Course Fees.* [The authorized providers of an Authorized Taxicab Training Refresher Course will charge each participant a fee of \$20.] Participants of an Authorized Taxicab Training Refresher Course must pay the fee charged by the authorized provider.

§5. The penalties for Sections 54-11(a) and 54-11(b) of Title 35 of the Rules of the City of New York are amended to read as follows:

(a) *Driver Must Have Valid Taxicab Driver’s License.*

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54-11(a)	Fine: [\$400] First Violation: <u>\$500 and Summary Suspension until compliance.</u> Second Violation in 24 months: <u>\$750 and Summary Suspension until compliance.</u> Third Violation: <u>revocation.</u>	Appearance NOT REQUIRED
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(b) *Driver Must Have Valid Chauffer’s License.*

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54-11(b)(1)	Fine: [\$400] First Violation: <u>\$500 and Summary Suspension until compliance.</u> Second Violation in 24 months: <u>\$750 and Summary Suspension until compliance.</u> Third Violation: <u>revocation.</u> Points: 2	Appearance NOT REQUIRED
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§6. Section 54-12 of Title 35 of the Rules of the City of New York is amended to add new subdivision (n) to read as follows:

(n) Facilitation of Sex Trafficking with a Vehicle. A Licensee must not Facilitate Sex Trafficking with a Vehicle.

54-12(n)	Fine: \$10,000 and revocation.	Appearance NOT REQUIRED
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§7. Section 54-14(b) of Title 35 of the Rules of the City of New York is amended to read as follows:

(b) *Driving While Impaired.*

(1) A Driver must not operate a Vehicle while his or her driving ability is impaired by intoxicating liquor (regardless of its alcoholic content) or while he or she is under the influence of Drugs.

(2) A Driver must not operate or occupy his or her Vehicle for at least six hours after consuming any intoxicating liquor, regardless of its alcoholic content, or any Drugs.

(3) A Driver may be charged with Driving While Impaired regardless and independent of any of the Driver's previous Drug Test results.

§8. Section 55-04(j) of Title 35 of the Rules of the City of New York is amended and new subdivision (n) is added to read as follows:

(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 an authorized provider of a Defensive Driving Course dated within three years prior to the date of the renewal application.

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(n) *Sex Trafficking Awareness Training.*

(i) Beginning December 1, 2012, all Applicants, including Applicants for renewal licenses, must do all of the following:

A. Complete Sex Trafficking Awareness Training, and

B. Certify to the Commission as part of his or her application that he or she has completed such training.

(ii) For any Applicant applying for a For-Hire Driver's License on or after December 1, 2012, completion of Sex Trafficking Awareness Training and certification of completion are conditions for issuance of a license.

(iii) *Exception for Applicants who have completed Sex Trafficking Awareness Training.*

Beginning December 1, 2012, Applicants who have previously completed the Sex Trafficking Awareness Training course at least once and have certified that they have done so as required by sections (i) and (ii) of this section are not required to do so again, provided that they do all of the following:

A. Obtain and review the Continuing Sex Trafficking Awareness Training materials approved by the Commission and

B. Certify to the Commission as part of his or her application that he or she has obtained and reviewed Continuing Sex Trafficking Awareness Training material provided by the Commission.

C. For applicants who qualify to use this exception, review of the written Continuing Sex Trafficking Awareness Training materials and certification of obtaining and review of such materials are conditions for issuance of a license.

§9. The penalty for Section 55-11 of Title 35 of the Rules of the City of New York is amended to read as follows:

(b) *Driver Must Have a Valid Chauffeur’s License.*

55-11(b)	Fine: [\$400] First Violation: <u>\$500 and Summary Suspension until compliance.</u> Second Violation in 24 months: <u>\$750 and Summary Suspension until compliance.</u> Third Violation: <u>revocation.</u> Points: 2	Appearance NOT REQUIRED
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§10. Section 55-12 of Title 35 of the Rules of the City of New York is amended to add new subdivision (l) to read as follows:

(l) *Facilitation of Sex Trafficking with a Vehicle.* A Licensee must not Facilitate Sex Trafficking with a Vehicle.

55-12(l)	Fine: \$10,000 and revocation.	Appearance NOT REQUIRED
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§11. The penalties for Section 55-19(a) of Title 35 of the Rules of the City of New York is amended to read as follows:

(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.

55-19(a)	Fine: First Violation: [ <del>\$350</del> ] <u>\$500</u> Second Violation in 24 months: [ <del>\$500</del> ] <u>\$1500</u> Third Violation in 36 months: Revocation	Appearance REQUIRED
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§12. The penalties for Sections 56-11(b), 56-11(c), and 56-11(d) of Title 35 of the Rules of the City of New York are amended to read as follows:

(b) *Driver Must be Licensed.*

56-11(b)	Fine: [\$400] First Violation: <u>\$500 and Summary Suspension until compliance.</u> Second Violation in 24 months: <u>\$750 and Summary Suspension until compliance.</u> Third Violation: <u>revocation.</u>	Appearance NOT REQUIRED
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(c) *Driver Must Have Valid Chauffeur’s License.*

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56-11(c)	Fine: [\$400] First Violation: <u>\$500 and Summary Suspension until compliance.</u> Second Violation in 24 months: <u>\$750 and Summary Suspension until compliance.</u> Third Violation: <u>revocation.</u>	Appearance NOT REQUIRED
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(d) *Driver Must Possess Valid Paratransit License.*

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56-11(d)	Fine: [\$400] <u>\$500 to \$1500 and Summary Suspension until compliance.</u>	Appearance NOT REQUIRED
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§13. Section 56-12 of Title 35 of the Rules of the City of New York is amended to add new subdivision (l) to read as follows:

(l) *Facilitation of Sex Trafficking with a Vehicle.* A Licensee must not Facilitate Sex Trafficking with a Vehicle.

56-12(l)	<u>Fine: \$10,000 and revocation.</u>	<u>Appearance NOT REQUIRED</u>
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§14. Section 57-12 of Title 35 of the Rules of the City of New York is amended to add new subdivision (j) to read as follows:

(j) *Facilitation of Sex Trafficking with a Vehicle.* A Licensee must not Facilitate Sex Trafficking with a Vehicle.

57-12(j)	<u>Fine: \$10,000 and revocation.</u>	<u>Appearance NOT REQUIRED</u>
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§15. Section 58-05(d)(1) of Title 35 of the Rules of the City of New York is amended to add new subdivision (iv) to read as follows:

(d) *“Owner-Must-Drive” Rule.*

(1) (iv) *Exception for Inheriting Spouse.* An Applicant who is an inheriting spouse, including a registered domestic partner, of a deceased Licensee who, at the time of death, would have otherwise met each of the other requirements set forth in this subsection 58-05(d) does not need to maintain a Taxicab Driver’s license.

§16. Section 58-08 of Title 35 of the Rules of the City of New York is amended to add new subdivision (j) to read as follows:

(j) *Commercial Motor Vehicle Tax.*

(1) The Commission will deny an application, including a renewal application, if the following Commercial Motor Vehicle Tax amounts are not paid for any Vehicle subject to the application:

(i) The Commercial Motor Vehicle Tax amount required under subdivision (k) of section 58-04 of this Chapter, including the interim payment, if any, or

(ii) Any additional Commercial Motor Vehicle Tax amount for any tax year or period which the New York City Department of Finance has notified the Commission is due and unpaid.

(2) Payment of the Commercial Motor Vehicle Tax amount described in paragraph (1) of this subsection is a condition to issuance of a License, including a renewal License, and the maintaining of such License.

(3) An Applicant applying to renew a vehicle for which the Commercial Motor Vehicle Tax has not been paid at the time that the renewal application is submitted is deemed not to have submitted the application by the required deadline and may be subject to penalties under section 58-06(c) of this chapter.

§17. Section 58-15 of Title 35 of the Rules of the City of New York is amended to add new subdivision (j) to read as follows:

(j) *Facilitation of Sex Trafficking with a Vehicle.* An Owner must not Facilitate Sex Trafficking with a Vehicle.

58-15(j)	Fine: \$10,000 and revocation.	Appearance NOT REQUIRED
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§18. Section 58-20(a)(4) of Title 35 of the Rules of the City of New York is amended to add new subdivision (viii) to read as follows:

(a) *Hours of Operation*

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(4) *Independent Driver Option: Special Rule for Medallions Leased to Independent Medallion Drivers*

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(viii) *Exception for Inheriting Spouses.* The inheriting spouse, including the registered domestic partner, of a deceased Owner who, at the time of death, would have otherwise met each of the other requirements set forth in this Section 58-20(a)(4) does not have to personally drive the minimum number of shifts and hours of operation for an Independent Medallion Owner.

(A.) If a deceased Owner elected to use the Independent Driver Option pursuant to this section 58-20(a)(4), the inheriting spouse may continue to exercise the Independent Driver Option for the remainder of the year in which the deceased Owner so elected .

(B.) If a deceased Owner met the requirements necessary to use the Independent Driver Option pursuant to this section 54-20(a)(4) but did not elect to use the Independent Driver Option, the inheriting spouse may nonetheless exercise this option for the remainder of the year in which the Owner died.

(C.) Notwithstanding the other provisions of this Chapter, an inheriting spouse of a deceased Owner may elect to use the Independent Driver Option or renew such election for the following calendar year.

§19. Sections 58-21(c)(5) and 58-21(c)(5)(ii) of Title 35 of the Rules of the City of New York are amended to read as follows:



(c) *Rate Rules.*

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(5) *Limits on Additional Charges.* In addition to a lease amount no greater than the Standard Lease Cap (as adjusted), an Owner/lessor (as well as any agent or employee of the Owner/lessor) must not request of or accept from any lessee (of a Taxicab or Medallion-only) any money or other thing of value, except for the following (this means an Owner/lessor must not charge any tip, tax, surcharge or other fee of any kind above the Standard Lease Cap (as adjusted), except for the following:

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(ii) A security deposit and deductions from the security deposit no greater than the amount allowed under subdivision [(d)] (e) below;

§20. Section 58-34 of Title 35 of the Rules of the City of New York is amended to add new subdivision (f) to read as follows:

(f) Operable Rear Windows. An Owner must equip all Taxicabs with an operable rear window that meets the requirements of §67-08 (c).

<u>58-34(f)</u>	<u>Fine: \$75</u>	<u>Appearance: NOT REQUIRED</u>
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§21. Section 59A-04(n) of Title 35 of the Rules of the City of New York is amended to read as follows:

(n). *Address.* An Applicant must give the Commission the Applicant's current Mailing Address and Email Address.

§22. Section 59A-13 of Title 35 of the Rules of the City of New York is amended to add new subdivision (l) to read as follows:

(l) Facilitation of Sex Trafficking with a Vehicle. A Licensee must not Facilitate Sex Trafficking with a Vehicle.

<u>59A-13(l)</u>	<u>Fine: \$10,000 and revocation.</u>	<u>Appearance NOT REQUIRED</u>
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§23. Section 59A-20(a) of Title 35 of the Rules of the City of New York is amended and new subdivision (3) is added to read as follows:

(a) *Mailing Address and Email Address.*

(1) A Vehicle Owner must report any change of Mailing Address or Email Address to the Commission in person or by mail within ten days of the change.

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(3) A Vehicle Owner must have a working Email Address at all times.

§24. The penalties for Section 59A-27(d) of Title 35 of the Rules of the City of New York are amended to read as follows:

(d) Correct Defect Directives. A For-Hire Vehicle Owner must comply with all Commission notices and directives to correct defects in the Vehicle.

59A-27(d)	Fine: [\$50 per day until information is supplied.] \$500, and suspension until compliance.	Appearance REQUIRED
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§25. Section 59B-13 of Title 35 of the Rules of the City of New York is amended to add new subdivision (m) to read as follows:

(m) Facilitation of Sex Trafficking with a Vehicle. A Licensee must not Facilitate Sex Trafficking with a Vehicle.

59B-13(m)	Fine: \$10,000 and revocation.	Appearance NOT REQUIRED
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§26. Section 60A-12 of Title 35 of the Rules of the City of New York is amended to add new subdivision (m) as follows:

(m) Facilitation of Sex Trafficking with a Vehicle. A Licensee must not Facilitate Sex Trafficking with a Vehicle.

60A-12(m)	Fine: \$10,000 and revocation.	Appearance NOT REQUIRED
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§27. Section 60B-12 of Title 35 of the Rules of the City of New York is amended to add new subdivision (l) to read as follows:

(l) Facilitation of Sex Trafficking with a Vehicle. While performing the duties and responsibilities of a Base Station Owner, a Licensee must not Facilitate Sex Trafficking with a Vehicle.

60B-12(l)	Fine: \$10,000 and revocation.	Appearance NOT REQUIRED
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§28. Section 61A-12 of Title 35 of the Rules of the City of New York is amended to add new subdivision (i) to read as follows:

(i) Facilitation of Sex Trafficking with a Vehicle. A Commuter-Van Vehicle Owner must not Facilitate Sex Trafficking with a Vehicle.

61A-12(i)	Fine: \$10,000 and revocation.	Appearance NOT REQUIRED
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§29. Section 61B-12 of Title 35 of the Rules of the City of New York is amended to add new subdivision (i) to read as follows:

(i) Facilitation of Sex Trafficking with a Vehicle. A Commuter-Van Service Owner must not Facilitate Sex Trafficking with a Vehicle.

61B-12(i)	Fine: \$10,000 and revocation.	Appearance NOT REQUIRED
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§30. Section 67-08 of Title 35 of the Rules of the City of New York is amended to add new subdivision (c) to read as follows:

(c) Rear Windows. A Taxicab must be equipped with rear windows that can be opened and closed by passengers.

§31. Section 67-15(d)(1)(ii) of Title 35 of the Rules of the City of New York is amended to read as follows:

(d) *Passenger Information Monitor (“PIM”)*

(1) Unless exempt under 58-41(c), every Taxicab must be equipped with T-PEP that includes a passenger information monitor that meets the following requirements:

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(ii) The monitor has a screen that is no less than ten inches measured diagonally. (Exception: In Hybrid Electric Vehicles used as Taxicabs that do not require a partition, Clean Air Taxicabs that do not require a partition, Taxicabs powered by alternate fuel that do not require a partition, and other [small clean air or] low emission taxicabs that do not [have] require a partition, the screen size may be less than ten inches but not less than five-and-one-half inches measured diagonally.)

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS**

**253 BROADWAY, 10<sup>th</sup> FLOOR**

**NEW YORK, NY 10007**

**212-788-1400**

**CERTIFICATION / ANALYSIS**

**PURSUANT TO CHARTER SECTION 1043(d)**

**RULE TITLE:** Rule governing penalties for sex trafficking by means of a licensed vehicle and amendment of certain other penalties.

**REFERENCE NUMBER: TLC-38**

**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

August 16, 2012

Mayor's Office of Operations

Date

**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:** Rule governing penalties for sex trafficking by means of a licensed vehicle and amendment of certain other penalties.

**REFERENCE NUMBER:** 2012 RG 065

**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

Date: August 16, 2012

Acting Corporation Counsel