

## **New York City Taxi and Limousine Commission**

### **Notice of Promulgation of 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”) promulgates rules to amend its driver and adjudications rules to restate that a driver’s license will be summarily suspended (suspended without a hearing) if the driver has failed to take or pass a drug test. In addition, TLC is amending other rules for consistency and clarity. These rules are promulgated pursuant to Sections 1043 and 2303 of the Charter and Section 19-503 of the Administrative Code of the City of New York. These rules were published in the City Record on June 28, 2018 for public comment. On August 2, 2018, a public hearing on these rules was held by the TLC at its offices at 33 Beaver Street, 19<sup>th</sup> Floor, New York, New York, and the rules were adopted by the Commission on October 3, 2018. Pursuant to Section 1043(c)(1)(c) of the Charter, these rules will take effect 30 days after publication.

### **Statement of Basis and Purpose of Rule**

The amended rules make the following clarifications to rules requiring the drug testing of all holders of a TLC Driver License:

- Clarifies that drivers who fail to take a drug test by the end of the first or second year of their three-year TLC license will be summarily suspended until the driver passes a drug test;
- Provides that such drivers will have their license restored and face only a fine if the drug test is passed more than 30 days after their one-year or two-year anniversary; and
- Clarifies that drivers suspended for failing to undergo an annual drug test may challenge the summary suspension through written documentation as provided under TLC rule 68-16(d).
- Specifically restores the words “summary suspension” to the penalty for failing to pass a drug test. A driver who fails a drug test poses a direct and substantial threat to the public health or safety. The phrase was inadvertently dropped during a prior rules revision.

The amended rules also:

- Make the rules regarding the seizure and forfeiture of vehicles for unlicensed for-hire activity consistent with changes to NYC Administrative Code Section 19-506(b)(1), which now includes commuter vans;
- Eliminate an outdated reference to black car retirement rules; Rule 59A-28(d), providing for vehicle retirement, was repealed in 2015;

- Define a “week” for purposes of weekly fatigue calculations as the total hours between Monday through the following Sunday, to make hours simpler for drivers to track;
- Clarify that an applicant for a for-hire vehicle license may not obtain a license if the vehicle (as identified by the Vehicle Identification Number) is already associated with a license; and
- Eliminate reference to outdated exceptions for payment of the Vehicle License Fee for a Street Hail Livery License, since the Initial and Second Street Hail Livery License Issuance Periods (during which these exceptions applied) have ended.

TLC’s authority for these rules is found in section 2303 of the New York City Charter and section 19-503 of the New York City Administrative Code.

New material is underlined.

[Deleted material is in brackets.]

“Shall” and “must” denote mandatory requirements and may be used interchangeably in the rules of this department, unless otherwise specified or unless the context clearly indicates otherwise.

Section 1. Subdivision (j) of section 59A-04 of Title 35 of the Rules of the City of New York is amended to read as follows:

(j) *One License per Vehicle.*

[(1) There must not be more than] Only one For-Hire Vehicle License will be issued and in effect for any vehicle, as indicated by the vehicle identification number, at any one time.

[(2) If the Commission receives an application for a For-Hire Vehicle License for a Vehicle that has an existing, Valid, For-Hire Vehicle License (as indicated by the VIN number), held by someone other than the Applicant:

(i) The Commission will schedule a Hearing to determine whether the holder of the existing Valid For-Hire Vehicle License is fit to hold the License.

(ii) The Commission will revoke the existing License unless the holder demonstrates that the License has been transferred to a new vehicle.]

Section 2. Paragraphs 1 through 3 of subdivision (a) of section 59A-07 of Title 35 of the Rules of the City of New York, providing exceptions to the vehicle license fee previously available to licensees who obtained a Street Hail Livery License during the initial and second license issuance periods, are repealed.

Section 3. Paragraph (iii) of subdivision (e) of section 59B-18 of Title 35 of the Rules of the City of New York is amended to read as follows:

- (iii) *Weekly Limit.* A Base or Associated Base must not dispatch a Driver to transport any Passenger(s) for hire in more than 60 hours in total in [a calendar week] any seven-day period that begins on Monday and ends on Sunday.

Section 4. Subdivision (e) of section 59B-25 of Title 35 of the Rules of the City of New York, relating to compliance with black car retirement rules, is REPEALED, and subdivisions (f) through (k) are relettered subdivisions (e) through (j).

Section 5. Paragraph (1) of subdivision (a) of section 68-15 of Title 35 of the Rules of the City of New York is amended to read as follows:

- (1) The Chairperson can summarily suspend a License if the Chairperson believes that continued licensure would constitute a direct and substantial threat to public health or safety, pending revocation proceedings. Such direct and substantial threats to public health or safety [would] include but are not limited to:
  - (i) Any act, as prohibited by these Rules, of driving a TLC licensed vehicle while Impaired by intoxicating liquor (regardless of its alcoholic content), or Drugs;
  - (ii) Any act, as prohibited by these Rules, of bribery, fraud, material misrepresentation, theft, threat against a person, harassment, abuse, or use of physical force[.];
  - (iii) Any act, as prohibited by these Rules, involving the possession of a Weapon in a vehicle licensed under these Rules;
  - (iv) A positive result on a drug test or a drug test sample that cannot be tested for Drugs.

Section 6. Paragraph (1) of subdivision (d) of section 68-16 of Title 35 of the Rules of the City of New York is amended to read as follows:

- (1) Violation of Drug-Testing Rules. A Driver who fails to be timely tested for drug use, in accordance with [subdivision] subdivisions (c) or (d) of section 80-14 of these Rules, and whose License is then summarily suspended, is not entitled to a hearing, but can provide the Commission, within 10 calendar days of the notice described in subdivision (b), with a single submission of written documentation refuting the suspension of his or her License.

Section 7. Paragraph (1) of subdivision (a) of section 68-17 of Title 35 of the Rules of the City of New York is amended to read as follows:

- (1) The Commission and/or any police officer may seize any vehicle where:
  - (i) Probable cause exists to believe that the vehicle is being operated [or engaged in Unlicensed Activity as set forth] in violation of sections 19-506 (b), (c), or (k) [and 19-529.2] of the Administrative Code , or is being operated as a Commuter Van without Authorization; and
  - (ii) At the time of the stop, the Owner has at least one prior violation of sections 19-506 (b), (c), or (k) of the Administrative Code in the past 36 months (or in the case of an Owner of a Commuter Van, one prior violation [of section 19-529.2 of the Administrative Code] for operating a Commuter Van without Authorization in the past five years), thereby making the vehicle potentially subject to forfeiture according to section 68-18 of these Rules.

Section 8. The penalty box of subdivision (c) of section 80-14 of Title 35 of the Rules of the City of New York, requiring drug testing as directed by TLC, is amended to read as follows:

§80-14(c)	Fine: <u>Summary Suspension</u> until compliance	Appearance NOT REQUIRED
-----------	--	-------------------------

Section 9. The penalty box of paragraph (3) of subdivision (d) of section 80-14 of Title 35 of the Rules of the City of New York, requiring drug testing when a Driver has held a TLC Driver License for one year, is amended to read as follows:

§80-14(d)(3)	Fine: [\$100 if plead guilty before a hearing; \$200 if found guilty following a hearing and suspension] <u>Summary Suspension</u> until compliance. <u>\$200 if compliance is more than 30 days after the deadline.</u>	Appearance NOT REQUIRED
--------------	--	-------------------------

Section 10. The penalty box of paragraph (4) of subdivision (d) of section 80-14 of Title 35 of the Rules of the City of New York, requiring drug testing when a Driver has held a TLC Driver License for two years, is amended to read as follows:

§80-14(d)(4)	Fine: [\$100 if plead guilty before a hearing; \$200 if found guilty following a hearing and suspension] <u>Summary Suspension</u> until compliance. <u>\$200 if compliance is more than 30</u>	Appearance NOT REQUIRED
--------------	---	-------------------------

	<u>days after the deadline.</u>	
--	---------------------------------	--

Section 11. Subdivision (e) of section 80-14 of Title 35 of the Rules of the City of New York is amended to read as follows:

- (e) *Results of Drug Test.* Driver must pass every drug test, including “For Cause” drug tests under §80-14(c) and “Annual” drug tests under §80-14(d). If the results of either test are positive, or if the sample cannot be tested, the Driver’s License shall be summarily suspended, and can be revoked after a hearing.

§80-14(e)	[Fine] <u>Penalty: Summary Suspension and Revocation</u>	Appearance REQUIRED
-----------	--	---------------------

Section 12. Paragraph (3) of subdivision (f) of section 80-14 of Title 35 of the Rules of the City of New York is amended to read as follows:

- (3) *Weekly Limit.* A Driver must not transport any Passenger(s) for hire for more than 60 hours in total in [a calendar week] any seven-day period that begins on Monday and ends on Sunday.