

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 is proposing rules which would make changes to the existing rules in Chapters 58 and 75 of Title 35 of the Rules of the City of New York regarding Medallion Taxicab Service and Rule for Authorization of TPEP Providers. The proposed rules would repeal the authority for Medallion Owners to deduct \$.06 from every fare to go towards driver healthcare services and disability coverage. The proposed rules would also remove the requirement that TPEP must capture the \$.06 healthcare fee

When and where is the Hearing? The Commission will hold a public hearing, at which the public and interested parties are invited to submit comments and testimony on the proposed rules, at 10:00 a.m. on February 25, 2016. This hearing will be held in the Commission's public hearing room at 33 Beaver St., New York, NY on the 19th Floor.

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 Hearings.** Anyone who wants to comment on the proposed rule at the public hearings 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 session begins on February 25, 2016. You can speak for up to three minutes.

Is there a deadline to submit written comments? Yes, you must submit written comments by February 24, 2016.

Do you need assistance to participate in the Hearings? 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 February 18, 2016.

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.

What authorizes the Commission to make this rule? Sections 1043 and 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 it was not contemplated when the Commission published the agenda.

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 RULE

The proposed rules amend the Taxi and Limousine Commission's (TLC) current rules by deleting those related to the Driver Healthcare Fund (HCF). The TLC adopted rules that became effective on September 4, 2012 to allow Medallion Owners to deduct \$.06 per trip for all trips to fund driver healthcare services and disability coverage. On June 4, 2015 the New York Appellate Division issued a decision on *Ahmed, Delorbe, and Friendly v City of New York, et al.*, finding that the TLC had exceeded its authority in promulgating the HCF rules. The TLC is now repealing rules that provide for the collection of this HCF fee.

Specifically, the proposed rules:

- Delete references in Chapter 58 to the \$.06 per trip deduction and remove the authority for medallion owners to withhold money for a driver health care and disability fund.
- Delete the requirement in Chapter 75 that a TPEP system capture the \$.06 per trip item.

New material is underlined.

[Material inside brackets indicates deleted material.]

Section 1. Items (A) and (B) of subparagraph (viii) of paragraph (5) of subdivision (c) of section 58-21 of Title 35 of the Rules of the City of New York are deleted in their entirety, and items (C) and (D) are renumbered items (A) and (B), to read as follows:

(viii) In addition to these charges, an Owner can deduct from credit card receipts payable to the Driver amounts collected by the T-PEP Provider, pursuant to the T-PEP Provider's authorization by the Commission, provided that

[A. such amounts are dedicated for the purpose of providing health care services and disability coverage for drivers;

B. such amounts do not exceed \$0.06 per trip]

[C.] A. such amounts are provided by rule of the Commission; and

[D.] B. such amounts are timely remitted to the Owner's TPEP Provider or other recipient as approved by the TLC.

§58-21(c)(5)(viii)[(D)] (B)	Fine: \$1,000 and suspension until compliance	Appearance REQUIRED
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Section 2. Paragraphs (1) and (2) of subdivision (f) of section 58-21 of Title 35 of the Rules of the City of New York are amended to read as follows:

(1) For any lease of a Taxicab (vehicle and Medallion) under paragraph 58-21(c)(1) or 58-21(c)(2), an Owner (or Owner's Agent) must pay a Driver in cash, on a daily basis, the total amount of all non-cash payments, including E-Payments through TPEP (if any), made during the Driver's shift, less [the \$.06 per trip driver health surcharge described in paragraph 58-21(f)(5) and, on and after January 1, 2015,] the Taxicab Improvement Surcharge payable to the Taxicab Improvement Fund as set forth in section 58-16.

(2) For any lease not described in paragraph (1), an Owner (or Owner's Agent) must pay the Driver in cash, on no less than a weekly basis, the total amount of all non-cash payments, including E-Payments through TPEP (if any), made during that period, less [the \$.06 per trip driver health surcharge described in paragraph 58-23(f)(5) and, on and after January 1, 2015,] the Taxicab Improvement Surcharge payable to the Taxicab Improvement Fund as set forth in Section 57-16.

Section 3. The numerical designation of subparagraph (i) and subparagraphs (ii) and (iii) of paragraph (5) of subdivision (f) of section 58-21 of Title 35 of the Rules of the City of New York are deleted , to read as follows:

(5) An Owner can deduct from credit card receipts payable to the Driver amounts retained by or payable to the T-PEP Provider, pursuant to the T-PEP Provider's contract with the Commission, provided that [(i)]such amounts are provided for by contract between the T-PEP Provider and the Commission or by rule of the Commission[;

(ii) such amounts are dedicated for the purpose of providing healthcare services and disability coverage for drivers; and

(iii) such amounts do not exceed \$0.06 per trip].

Section 4. Item (E) of subparagraph (iii) of paragraph (2) of subdivision (a) of section 75-25 of Title 35 of the Rules of the City of New York is amended to read as follows:

(E) Only a single MTA tax[,], and a single Taxicab Improvement Surcharge[,], and a single \$.06 healthcare fee] are required to be captured by the TPEP for the trip, regardless of how many ways the total charges are split.

Section 5. Item (C) of subparagraph (xii) of paragraph (2) of subdivision (a) of section 75-25 of Title 35 of the Rules of the City of New York is amended by deleting clause (IX) and renumbering clauses (X) to (XIV) as clauses (IX) to (XIII), to read as follows:

- (xii) The TPEP must be capable of generating the following payment data, whether payment is made by cash, credit/debit/prepaid card, E-Hail App that provides for E-Payment, or Digital Wallet Application, as further described in subdivision (c) of this section:

* * *

- (C) end-of-shift data summarizing the number of fares, the total fare amount, and as applicable, the number of credit/debit/prepaid card transactions (including trips paid by E-Hail App that provides for E-Payment that are processed through the TPEP Provider's payment gateway) and the total fares of such transaction. End-of-shift data must be made available to the Taxicab Driver by printing from the Taximeter or accessing electronically, at the Taxicab Driver's preference, and must contain the following information:

* * *

- (IX) [total Healthcare Fee collected;
- X] total Taxicab Improvement Surcharge collected;
- [XI] ~~(X)~~ number of credit/debit/prepaid card trips (including trips paid for by E-Hail App that provides for E-Payment that are processed through the TPEP Provider's payment gateway);
- [XII] ~~(XI)~~ number of credit/debit/prepaid card trips (including trips paid for by E-Hail App that provides for E-Payment that are processed through the TPEP Provider's payment gateway) requiring a signature
- [XIII] ~~(XII)~~ total credit/debit/prepaid fares (including fares paid for by E-Hail App that provides for E-Payment that are processed through the TPEP Provider's payment gateway) collected; and
- [XIV] ~~(XIII)~~ total credit/debit/prepaid tips (including tips paid for by E-Hail App that provides for E-Payment that are processed through the TPEP Provider's payment gateway) collected.

Section 6. Paragraph 2 of subdivision (q) of section 75-25 of Title 35 of the Rules of the City of New York, relating to the collection and remittance of the healthcare fee by TPEP providers, is REPEALED.

**NEW YORK CITY LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, NY 10007
212-356-4028**

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

RULE TITLE: Repeal of Driver Health Care Fund Surcharge Collection Rules

REFERENCE NUMBER: 2016 RG 004

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: January 14, 2016

**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: Repeal of Driver Health Care Fund Surcharge Collection Rules

REFERENCE NUMBER: TLC-89

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 it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

/s/ Francisco X. Navarro
Mayor's Office of Operations

January 14, 2016
Date