

## 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 considering changing its rules. The change would repeal the Owner-Must-Drive (OMD) requirements for owners of taxicab medallions with OMD restrictions.

**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 19<sup>th</sup> 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 – 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 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 Thursday, 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 RULES**

The proposed rules amend the Taxi and Limousine Commission's (TLC) current rules by repealing the Owner-Must-Drive (OMD) medallion requirement.

### **Background**

The TLC's current OMD rules include requirements that owners of independent taxicab medallions who purchased their medallions after January 6, 1990, personally drive their taxicabs a minimum number of hours (previously shifts) each year. This requirement was intended to promote safety and quality customer service, in the belief that taxicab drivers who own a medallion would operate the medallion more responsibly than those who did not because of their financial stake in their medallion.

In response to an industry petition in 2010, and discussions with industry groups in 2011, the TLC amended its OMD rules to provide flexibility to owners of OMD medallions while preserving the advantages of owner-driven taxicabs. These amendments included reducing the number of shifts the owner must drive and allowing the owner to designate another driver to meet the required number of shifts.

In January 2015, the TLC again revised its OMD rules to provide more flexibility to OMD medallion owners by reducing the driving requirements as well as the payments required for utilizing the Designated Driver option. This change was prompted by the TLC's Vision Zero initiatives which promote safe driving habits for all drivers, not just independent medallion owner drivers. Vision Zero, launched in 2014, is Mayor de Blasio's ambitious plan to reduce traffic fatalities in New York City.

TLC's current Vision Zero driver safety initiatives, which include expanding and enhancing driver education as well as increasing penalties for unsafe driving, are intended to promote driving safety for all drivers, including those who own and drive their medallion taxicabs. Therefore, specific requirements to promote driver safety for this category of licensee are no longer needed.

### **Rule Amendments**

Specifically the proposed rules:

- Delete the Owner-Must-Drive and Independent Medallion Driver definitions in Chapters 51 and 58.
- Eliminate the minimum hours of operation for independent medallion owners and the associated penalties for non-compliance.
- Eliminate the independent driver option and the payment to TLC required for use of this option.
- Discontinue as unnecessary the option to request waivers from the OMD requirements, including any special rules or exceptions for inheriting spouses.

- Eliminate the OMD requirement in Chapter 65 for the sale of new independent taxicab medallions.

These rules are authorized by Section 2303 of the New York Charter and Section 19-503 of the Administrative Code.

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 by deleting the following Owner-Must-Drive definition:

**[Owner-Must-Drive Rule** is a requirement that an owner of an Independent Medallion must personally drive a minimum number of shifts in every calendar year.]

Section 2. Subdivision (p) of section 58-03 of Title 35 of the Rules of the City of New York, defining Independent Medallion Driver, is deleted in its entirety, and subdivisions (q) to (pp) are relettered as subdivisions (p) to (oo).

Section 3. Subdivision (d) of section 58-05 of Title 35 of the Rules of the City of New York, setting forth the Owner Must Drive requirement for independent medallion owners, is deleted in its entirety, and subdivision (e) is relettered as subdivision (d).

Section 4. Subdivision (a) of section 58-20 of Title 35 of the Rules of the City of New York is amended to read as follows:

(a) *Hours of Operation*

[(1) *Minimum Hours of Operation for Independent Medallion Owners.*

(i) *General Rule.* An Independent Medallion Owner who acquired the Independent Medallion on or after January 7, 1990 must drive his or her Taxicab a minimum of 900 hours each calendar year.

A. *Enforcement.* Penalties for failing to comply with the requirement will be determined by the number of required hours not driven.

(ii) *Who Must Drive.* If the Owner is a Business Entity, the requirement of subparagraph (i) of this paragraph must be filled by one or more 10% Business Entity Persons. One 10% Business Entity Person can provide the complete requirement or up to four 10% Business Entity Persons can divide the requirement.

(iii) *Special Rule for Individuals only.* An Independent Medallion Owner must drive his/her Taxicab a minimum of 600 hours each calendar year if he/she meets all of the following:

- A. He/she is the sole Owner of the Independent Medallion. This exception is not available if an Independent Medallion is owned by a Business Entity with more than one Business Entity Person.
  - B. He/she is at least 62 years of age at the beginning of the calendar year.
  - C. He/she has owned the Independent Medallion at least 5 years prior to turning age 62.
- (iv) *Special Rule for inheriting spouses.* A spouse (including a registered domestic partner) inheriting an interest in an Independent Medallion from the Owner of that Medallion will not be required to meet the Owner-Must-Drive requirement for 180 days following the Owner's death. In order to benefit from this special rule, the inheriting spouse must notify the Commission of the Owner's death within 120 days, unless this requirement is waived by the Chairperson. This rule does not apply to children or other heirs, and it does not apply to an inheriting spouse's future spouses
- A. After 180 days, the inheriting spouse is subject to the same requirement the deceased Owner was subject to that is, no required hours, 900 hours or 600 hours.
  - B. For purposes of determining compliance with the Owner-Must-Drive requirements, those requirements will be pro-rated on a monthly basis in any applicable calendar years to account for the 180 days for which compliance is excused.

§58-20(a)(1)	<p>Fine: For number of <b>missed</b> hours in any calendar year</p> <p>\$500 if 1 to 60 hours missed.</p> <p>\$1,000 if at least 61 up to 120 hours missed.</p> <p>\$2,000 if at least 121 up to 180 hours missed.</p> <p>\$4,000 if 181 or more hours missed.</p> <p>Commission can also seek revocation if there are violations for missed hours spanning more than one calendar year.</p>	Appearance REQUIRED
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(2) *Independent Driver Option.*

- (i) An Owner does not have to personally drive the minimum number of hours of operation for an Independent Medallion Owner as set forth in Section 58-20(a)(1)(i) of this Chapter if all of the requirements of this paragraph are met.
  - A. An Owner of an Independent Medallion who acquired the Medallion before July 1, 2011 must own the Medallion for at least two years before being able to be excused from the driving requirement under the Independent Driver Option.
  - B. An Owner of an Independent Medallion who acquires the Medallion on or after July 1, 2011, must own the Medallion for at least five years and must meet the driving requirements of Section 58-20(a)(1) during a five year period before being able to be excused from the driving requirement under the Independent Driver Option.
  - C. *Driving History*
    - 1. The Chairperson will use records generated by the Taxicab Technology System to determine whether an Owner has met the Owner-Must-Drive requirements.
    - 2. For periods before the Taxicab Technology System was operating, the Chairperson will assume that the Owner met the Owner-Must-Drive requirements unless the Commission's licensing or adjudication records show that the requirement was not met.
- (ii) *Penalty.* An Owner who provides the service required by section 58-20(a)(1) by electing to use the Independent Driver Option will pay a penalty each calendar year for failing to provide service personally. The penalty the Owner will pay is \$1,000, unless the Owner is 62 or older at the time of election, in which case the penalty is \$500.
- (iii) *Electing the Independent Driver Option provided in this Section*
  - A. An Owner may elect the Independent Driver Option at any time by giving notice to the Commission. An Owner must notify the Commission by no later than December 1 of each year if the Owner elects to use the provisions of this paragraph to provide service as required by paragraph two of this subdivision for the entire next calendar year.

- B. The Owner must have met the driving requirements of section 58-20(a)(2)(i) in order to be approved to elect the Independent Driver Option.
  - C. The Owner must use any forms required by the Commission.
  - D. When providing the Commission with notice that the Owner elects to use the provisions of this paragraph, the Owner must also provide, at the same time the payment for the \$1,000 or \$500 penalty required in section 58-20(a)(2)(iii).
- (iv) *Owner Liable for non-performance.* If the Owner or Owner's designated Independent Medallion Drivers fail to drive the minimum 900 hours, the Owner is liable for a violation of paragraph two of this subdivision for that calendar year.
- A. The Owner's penalty will be determined by the number of hours actually driven by the designated Independent Medallion Drivers following the submission and approval of the application and payment of the penalty to the Commission as set forth in subparagraph (iii) of this paragraph plus any hours driven by the Owner.
- (v) *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 paragraph does not have to personally drive the minimum number of hours of operation for an Independent Medallion Owner.
- A. If a deceased Owner elected to use the Independent Driver Option pursuant to this paragraph, 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 paragraph 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.
- (3) *Waivers.* Upon written request by an Owner, Chairperson can waive or modify the requirements of the Owner-Must-Drive rule.
- (i) The Chairperson can grant waivers for up to twelve months, and can grant extensions of those waivers for up to an additional twelve months.
  - (ii) The Chairperson will require an Owner to provide documentation for any requested waiver. Failure to provide required documentation will result in denial of the request for a waiver.
  - (iii) The Chairperson will grant waivers only for the following reasons and only after considering documentation:
    - A. Medical reasons.
    - B. Non-vacation travel for family or business reasons.
    - C. U.S. military service.
  - (iv) Waivers will result in a pro-rata reduction in the driving requirement in the calendar years applicable.

Example: A two month waiver will reduce the Owner-Must-Drive service requirement to 750 hours in the calendar year granted.

- (4) *Service Requirement Pro-Rated.* Service requirements will be pro-rated on a monthly basis. The Commission will use pro-ration to determine, for example, the service requirements applicable to a buyer and a seller of an Independent Medallion in a year in which the Medallion is sold.
- (5)] *Maximum Driving Hours.* An Owner must not require a Driver to operate one or more Taxicabs for more than 12 consecutive hours.

§58-20(a)[(5)]	Fine: \$50	Appearance NOT REQUIRED
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Section 5. Subdivision (d) of section 65-07 of Title 35 of the Rules of the City of New York, relating to the purchase of Independent Medallions, is deleted in its entirety, and subdivisions (e) through (g) are relettered as subdivisions (d) through (f).

**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 Owner Must Drive Requirement for Certain Taxicab Medallions**

**REFERENCE NUMBER: 2016 RG 006**

**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 15, 2016

**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: Repeal of Owner Must Drive Requirement for Certain Taxicab Medallions**

**REFERENCE NUMBER: TLC-90**

**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 20, 2016  
Date