NEW YORK CITY TAXI AND LIMOUSINE COMMISSION

Notice of Promulgation of Rules

Notice is hereby given in accordance with Section 1043(b) of the New York City Charter ("Charter") that the Taxi and Limousine Commission ("TLC") promulgates rules to reduce the risks of fatigued driving by its licensed drivers.

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 on December 2, 2016, for public comment in the City Record. On December 8, 2016, a public hearing was held by the TLC at its offices at 33 Beaver Street, 19th Floor, New York, New York, 10004.

STATEMENT OF BASIS AND PURPOSE OF RULES

This rule amends a rule that the Taxi and Limousine Commission (TLC) adopted in July 2016 to address the risks of fatigued driving. The rule incorporates feedback from the industry since the adoption of the initial rule. It also adds new reporting requirements for the for-hire vehicle (FHV) sector that will support the regulation of fatigued driving and assist TLC with enforcement initiatives in other areas.

Background

Long hours driving on the road can lead to fatigue and reduced sleep, and compounded over time, may result in chronic fatigue. For drivers, this means slowed reaction times and a reduced ability to assess situations quickly, increasing the danger of driver errors and the risk of crashing. Additionally, research has shown that being awake for 18 hours results in impairment equal to driving while under the influence of alcohol (DUI), and that being awake for 24 hours results in impairment equal to 1.25 times the threshold for driving while intoxicated (DWI).

Although almost all TLC-licensed drivers do not drive an excessive number of hours, TLC recognized that a small number does and that some drivers may be tempted to work dangerously long hours. Therefore, in support of the City's Vision Zero initiative to reduce traffic fatalities, TLC adopted rules in July 2016 to address the risks of fatigued driving.

Before establishing in these rules the maximum number of hours that licensed taxi and FHV drivers may work in any day or week, TLC analyzed available trip data, including FHV trip data. TLC used pickup times as a proxy for hours worked because that was the only data that FHV bases were required to report.[1] This approach provided one uniform method for calculating driving hours across the taxi and FHV sectors. TLC counted a pickup as one hour that would be tallied against the limit, regardless of the trip duration.

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[1] TLC issued rules in 2014 requiring FHV bases to report the pickup time and location of each trip, in addition to the license numbers of the driver and vehicle performing the trip.

Many stakeholders, including FHV bases, argued that it would be more accurate to use trip duration to calculate driving hours. TLC delayed implementation of the driver fatigue rules to explore this method for calculating driving hours as a means of establishing safe daily and weekly driving limits. In the fall of 2016, several FHV bases voluntarily produced trip records that included both pickup and drop-off times, allowing TLC to calculate trip durations. TLC then analyzed both FHV and taxi trip records and determined that a calculation based on trip duration provides a more accurate way to identify drivers at risk of fatigue. This method also makes it easier for drivers and bases to track driving hours, which will help them comply with the limits established in this rule.

Revised Fatigued Driving Rule

As a result of the above analysis, this rule adopts the alternative method for calculating driving hours based on trip duration. Licensed drivers would still be subject to daily and weekly driving limits, as under the current driver fatigue rules. Moreover, like the current rule, this rule also addresses acute and chronic fatigue, provides flexibility for different shift types, fights fatigue in both taxi and FHV sectors, and accounts for drivers working in both the taxi and FHV sectors.

The existing rule accounts for total driving time – transporting of passengers plus time cruising while not transporting passengers - in the calculation of the daily and weekly limits. Since this rule does not include cruising time, the daily and weekly limits would be reduced in the new rule from 12 hours to 10 hours and from 72 hours to 60 hours, respectively, to ensure that total driving time remains within acceptable limits. Even with these reduced daily and weekly limits, however, most drivers would not need to modify their driving hours in order to comply.

This rule would reduce the safety risks of fatigued driving by:

- Prohibiting a driver of a taxi or for-hire vehicle from transporting passengers for hire for more than 10 hours in any 24-hour period;

- Prohibiting a driver of a taxi or for-hire vehicle from transporting passengers for hire for more than 60 hours in a calendar week (that is, Sunday through Saturday);

- Resetting the 10-hour clock for a driver after any period in which he or she has gone at least eight consecutive hours without transporting passengers (e.g., a driver who finishes a trip at 9:30 p.m. on Monday after transporting passengers for 10 hours must take at least an eight hour break before picking up the next passenger no sooner than Tuesday at 5:30 a.m.); and

- Prohibiting a base from dispatching a driver to transport passengers for more than 10 hours in any 24-hour period (unless that base has stopped dispatching the driver to transport passengers for eight or more consecutive hours) and prohibiting a base from dispatching a driver to transport passengers for more than 60 hours in a calendar week.

To enforce this rule, each month TLC will review trip records submitted by yellow and green taxis, as well as FHV bases, to calculate the number of hours in which a driver transported passengers in a day or week. Trips by a driver who accepts dispatches from multiple bases, or

who operates both taxis and for-hire vehicles, will be combined to determine the total number of driving hours. Bases will only be responsible for trips that they dispatch, not dispatches that their affiliated drivers accept through other bases or street hails accepted by green taxis.[2]

Additional FHV Trip Data Reporting Requirements

As noted above, implementation of this rule is based on calculation of trip times, which will require FHV bases to regularly transmit to TLC drop-off time and location, in addition to the pickup time and location currently required by TLC rule. In addition to requiring FHV bases to report trip times, TLC will also require them to indicate when trips are shared. With drop-off location information, TLC can confirm the accuracy of the FHV records by considering such factors as distances traveled during and between trips, routes, and traffic conditions. Accurate drop-off information will also ensure that these rules are applied consistently whether the driver works in the taxi or FHV sector, given the flexibility now available to drivers under the newly-instituted TLC Driver's License.

Drop-off data for FHV trips will also assist TLC in effectively investigating passenger complaints or complaints from a pedestrian or other motorist about unsafe driving, by allowing it to determine the location of a vehicle at a particular time, including for incidents alleged to have occurred during or between trips. The data is particularly important for investigations in the FHV sector, where, unlike yellow and green taxis, the vast and growing vehicle fleet does not have readily identifiable markers, such as a medallion or permit number on the roof light.

The data will also support street enforcement in major service areas. For example, the potential for illegal solicitations by FHV drivers is high at peak drop-off times at the airports when drivers have completed trips and observe a large number of potential passengers. By understanding when for-hire trips to and from the airports occur TLC can better target resources to ensure that passengers are picked up at the airport only by drivers authorized to do so.

Finally, as the number of FHV vehicles and trips continues to grow, so does the need for greater transparency and accountability. Since November 2014, when TLC first imposed trip reporting requirements on the FHV sector, the number of FHVs has grown by over 50 percent to nearly 78,000 vehicles, or four times the combined number of yellow and green taxis. Because of the 2014 trip reporting requirements, the mechanism is in place for bases to submit the additional trip data to TLC that they collect. Collection of this data is likely already taking place, particularly for FHV trips that are dispatched via technologically-sophisticated means or when bases provide a binding fare quote.

For all of the above reasons, the rule would amend the current trip record rules to require that FHV bases collect and transmit to TLC:

- The drop-off time and location for each trip that they dispatch, and

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[2] For example, if Base A dispatches a driver to perform trips for nine hours in a 24-hour period and Base B dispatches the same driver to perform trips for an additional six hours in the same 24-hour period, then only the driver is in violation of the daily limit, not either of the two bases.

- An indication that the dispatched trip was shared with another dispatched trip.

TLC will maintain the privacy and confidentiality of the additional data that it will be collecting because of these new reporting requirements, as it does with all data currently collected.

Implementation

To implement this rule, TLC will first work with FHV bases to help them meet the new trip data reporting requirements. After these reporting requirements are met, and before any summonses are issued, TLC will issue warnings for several months to drivers or bases that exceed the daily or weekly driving limits. During this implementation period, TLC will continue to provide its expanded driver education and training materials, which were introduced after the adoption of the driver fatigue rule in July 2016 and include strategies to combat fatigue and information on the benefits of breaks and the importance of getting adequate rest. By drawing on all of these tools, TLC seeks to ensure that drivers have enough time to rest prior to transporting passengers for hire and thus help move the city a step closer to achieving Vision Zero.

New material is underlined.
[Material inside brackets indicates deleted material.]

Section 1. Subdivision (e) of section 59B-18 of Title 35 of the Rules of the City of New York is amended to read as follows:

(e)   *Limits on Hours of Driving.*

    (i)   *Generally.* A Base or Associated Base must not dispatch a Driver to [pick up] transport any [passenger(s)] Passenger(s) for hire in excess of the daily and weekly limits detailed in this subdivision.

        A   [Any hour of the day or week that contains at least one pick-up of any passenger(s) for hire will be counted as one full hour toward the daily or weekly limit, regardless of the duration of the trip. If a Driver does not pick up any passenger(s) for hire during an hour (for example, because the Driver is taking a break), then such hour will not count toward the daily or weekly limit] Daily and weekly driving hours will be calculated by adding up the time that passengers are being transported for hire. Time between trips will not be counted as driving hours.

        B   [The hours in which any pickups occur do not need to be consecutive in order to count toward the daily or weekly limit.

        C   Any violation of the daily limit cannot] If any time exceeds the daily limit and serves as the basis for a violation of the daily limit, such time cannot also [serve as a basis for] be counted toward a violation of the weekly limit.

D. It is a defense to a violation of the limits set forth in this subdivision that any such limit was exceeded because of a single trip that began before the limit was reached.

(ii) *Daily Limit*. A Base or Associated Base must not dispatch a Driver to [pick up] transport any [passenger(s)] Passenger(s) for hire in more than [12] 10 hours in total in any 24-hour period. EXCEPTION: If a Base or Associated Base does not dispatch a Driver to [pick up] transport [passengers] Passengers in at least eight consecutive hours, the [12-hour] 10-hour count resets and such Base or Associated Base can resume dispatching such Driver to pick up [passengers] Passengers for hire.

§59B-18(e)(ii)	$200 for each dispatch over the limit	Appearance NOT REQUIRED

(iii) *Weekly Limit*. A Base or Associated Base must not dispatch a Driver to [pick up] transport any [passenger(s)] Passenger(s) for hire in more than [72] 60 hours in total in [any seven-day period] a calendar week.

§59B-18(e)(iii)	$200 for each dispatch over the limit	Appearance NOT REQUIRED

Section 2. Paragraph (1) of subdivision (a) of Section 59B-19 of Title 35 of the Rules of the City of New York is amended to read as follows:

(1) With respect to all dispatched calls:

(i) The date, the time, and the location of the Passenger [to be picked up] pickup and drop-off

(ii) The Driver's TLC Driver License number

(iii) The dispatched Vehicle's License number

(iv) The TLC License number of the For-Hire Base that dispatched the Vehicle

(v) The TLC License number of the For-Hire Base affiliated to the dispatched Vehicle

(vi) Whether the Passenger is sharing the Vehicle for part or all of the trip with a Passenger from another dispatched call.

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

(f)   *Limits on Hours of Driving.*

    (1)   *Generally.* A Driver must not [pick up] <u>transport</u> any Passenger(s) for hire in excess of the daily and weekly limits detailed in this subdivision.

        (i)   [Any hour of the day or week that contains at least one pick-up of any Passenger(s) for hire will be counted as one full hour toward the daily or weekly limit, regardless of the duration of the trip. If a Driver does not pick up any Passenger(s) for hire during an hour (for example, because the Driver is taking a break), then such hour will not count toward the daily or weekly limit] <u>Daily and weekly driving hours will be calculated by adding up the time that passengers are being transported for hire. Time between trips will not be counted as driving hours.</u>

        (ii)   [The hours in which any pickups occur do not need to be consecutive in order to count toward the daily or weekly limit.

        (iii)]   The pickups that a Driver makes while operating any Vehicle pursuant to this Chapter will be combined for the purpose of counting hours toward the daily or weekly limit.

        [(iv)]<u>(iii)</u>   [Any violation of the daily limit cannot] <u>If any time exceeds the daily limit and serves as the basis for a violation of the daily limit, such time cannot</u> also [serve as a basis for] <u>be counted toward</u> a violation of the weekly limit.

        <u>(iv)</u>   <u>It is a defense to a violation of the limits set forth in this subdivision that any such limit was exceeded because of a single trip that began before the limit was reached.</u>

    (2)   *Daily Limit.* A Driver must not [pick up] <u>transport</u> any Passenger(s) for hire [in] <u>for</u> more than [12] <u>10</u> hours in total in any 24-hour period. EXCEPTION: If a Driver [picks up] <u>transports</u> no Passengers for hire for at least eight consecutive hours, the [12-hour] <u>10-hour</u> count resets and such Driver may resume picking up Passengers for hire.

§80-14(f)(2)	Hours above the daily limit:	Appearance NOT REQUIRED

	<u>No more than</u> 1 hour:
	   [If the limit is exceeded by one hour three times in any 7-day period: $50 if plead guilty before a hearing; and $75 if found guilty following a hearing.
	   If the limit is exceeded by one hour for the fourth or subsequent time in any 7-day	

	period: $50 if plead guilty before a hearing; and $75 if found guilty following a hearing] $50 if plead guilty before a hearing; and $75 if found guilty following a hearing. Over 1 hour but no more than 2 hours: $[50] 100 if plead guilty before a hearing; and $ [75] 150 if found guilty following a hearing. Over 2 hours but no more than 3[-4] hours: $ [100] 150 if plead guilty before a hearing; and $[150] 200 if found guilty following a hearing. [5 hours or more] Over 3 hours but no more than 4 hours: $200 if plead guilty before a hearing; and $300 if found guilty following a hearing. Over 4 hours: $300 if plead guilty before a hearing; and $400 if found guilty following a hearing. If guilty of three or more violations in a calendar month for exceeding the daily limit by [three] four or more hours, penalty shall also include a suspension of at least 5 days but no more than 15 days.	

(3)   *Weekly Limit*. A Driver must not [pick up] transport any Passenger(s) for hire [in] for more than [72] 60 hours in total in [any seven-day period] a calendar week.

§80-14(f)(3)	Hours above the weekly limit: No more than 1 hour [, if the limit is exceeded three or more times in a calendar month]: $50 if plead guilty before a hearing; and $75 if found guilty following a hearing. Over 1 hour but no more than 2 hours: $[50] 100 if plead guilty before a hearing; and $ [75] 150 if found guilty following a hearing. Over 2 hours but no more than 3[-4] hours: $ [100] 150 if plead guilty before a hearing; and $ [150] 200 if found guilty following a	Appearance NOT REQUIRED

| | hearing.

[5 hours or more] <u>Over 3 hours but no more than 4 hours</u>: $200 if plead guilty before a hearing; and $300 if found guilty following a hearing.

<u>Over 4 hours: $300 if plead guilty before a hearing; and $400 if found guilty following a hearing.</u>

If guilty of three or more violations in a calendar month for exceeding the weekly limit by [three] <u>four</u> or more hours, penalty shall also include a suspension of at least 5 days but not more than 15 days. | |