

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 modify the requirements for owners of taxicab medallions with Owner-Must-Drive (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 January 29, 2015. 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 either hearing by calling 212-676-1135. You can also sign up in the hearing room before the session begins on January 29, 2015. You can speak for up to three minutes.

Is there a deadline to submit written comments? Yes, you must submit written comments by January 29, 2015.

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, January 22, 2015.

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 regarding the Owner-Must-Drive (OMD) medallion requirement.

Background

The TLC's OMD rules include requirements that owners of independent taxicab medallions who purchased their medallions after January 6, 1990, personally drive their taxi cabs a minimum number of shifts each year. This requirement was intended to promote safety and quality customer service, on 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. Over time, the requirement has changed. 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 an owner to designate another driver to meet the required number of shifts.

On February 18, 2014, Mayor de Blasio launched the Vision Zero action plan – an ambitious plan to reduce traffic fatalities in New York City. Vision Zero accepts no traffic fatality as inevitable, but views traffic crashes as the result of a series of actions that can be changed or prevented through enforcement, education and design. Under the Vision Zero plan, safe driving must be a priority for all taxi cab drivers, not only those that own and drive their medallion taxicabs. Passengers also expect the TLC to ensure that all taxicab drivers operate their vehicles safely, whether or not they own the

medallion they operate. 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.

Because the TLC recognizes the need for all taxi drivers to drive safely regardless of medallion or vehicle ownership, the TLC is relaxing the OMD requirements by changing OMD requirements from shifts driven to cumulative hours driven. OMD medallion owners should find it easier to meet this new requirement. The TLC is also reducing the penalties for violation. Because this new requirement does not affect the TLC's obligation to issue a minimum number of OMD medallions, as required by section 19-504 (i) of the Administrative Code, the City will retain the benefits of single-medallion ownership, including medallion affordability.

Rule Amendments

Specifically the proposed rules:

- Amend the definition of Independent Medallion Driver.
- Amend and reduce the current "shift" driving requirements to "hours" on a yearly basis, including reducing the required driving time for an OMD medallion owner who is 62 years of age or older and has owned the medallion for a minimum of 10 years.
- Reduce the penalty for not driving the vehicle the required number of hours.
- Reduce the penalty for an OMD medallion owner who selects another driver, or multiple drivers, to fulfill the OMD requirement.
- Increase the amount of time for which a Medical Waiver may be granted.

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. Subdivision (p) of section 58-03 of Title 35 of the Rules of the City of New York is amended to read as follows:

- (p) *Independent Medallion Driver* is a Driver who drives the Taxicab owned by an Independent Medallion Owner pursuant to the Independent Driver Option under Rule 58-20(a)(3) to fulfill some or all of the minimum hours of operation required of the Owner. [meets the following requirements as to one Independent Medallion:
- (1) The Driver drives the Taxicab an average of at least 120 hours per month;
 - (2) The Driver is either
 - A. the title owner of the Taxicab vehicle or
 - B. the lessee of the Taxicab vehicle and the vehicle lease has a conditional purchase agreement for the vehicle; and
 - (3) The Driver is not an Independent Medallion Driver for any other Independent Medallion.]

Section 2. Paragraph (2) of subdivision (a) of section 58-20 of Title 35 of the Rules of the City of New York is deleted in its entirety, and paragraphs (3), (4) and (5) are renumbered paragraphs (2), (3) and (4) and amended to read as follows:

(a) *Hours of Operation*

* * *

(2) [*Minimum Hours of Operation for Independent Owner before July 1, 2011.*

(i) An Independent Medallion Owner must operate his/her Taxicab a minimum of 210 nine-hour shifts each calendar year (for a total operating time of 1,890 hours per year).

(ii) ***Owner-Must Drive Rule.***

A. If the Owner acquired the Independent Medallion on or after January 7, 1990, the Owner must personally drive the Taxicab the required minimum number of hours.

B. If the Owner is a Business Entity this requirement must be fulfilled by:

1. One Shareholder if the Owner is a corporation
2. One partner if the Owner is a partnership
3. One member if the Owner is a limited liability company.

§58-20(a)(2)(ii)	Fine: \$100-\$350 and/or suspension up to 30 days	Appearance REQUIRED
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(iii) Upon written request by an Owner, the Commission can waive or modify the requirements of the Owner-Must-Drive rule, for a limited time, for good cause shown.

§58-20(a)(2)(iii)	Fine: \$100-\$350 and/or suspension up to 30 days	Appearance REQUIRED]
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3] *Minimum Hours of Operation for Independent Medallion Owners [beginning July 1, 2011].*

(i) *General Rule.* [From January 1, 2012, an] An Independent Medallion Owner who acquired the Independent Medallion on or after January 7, 1990 must drive his or her Taxicab a minimum of [180 nine-]900 hours[shifts] each calendar year[for a total operating time of 1,620 hours per year].

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

[B. *Transition Provisions.* During calendar year 2011, an Independent Medallion Owner must drive his/her taxicab a minimum 195 nine-hour shifts (for a total operating time of 1755 hours).]

(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 [up] the requirement.

[A. *Limited Exception as to Business Entity Persons.* For two years, from July 1, 2011 to June 30, 2013, a Business Entity Person who is not a 10% Business Entity Person can fulfill the Owner-Must-Drive requirement.

B. After July 1, 2013, the service requirement must be filled by one or more 10% Business Entity Persons.]

(iii) *Special Rule for Individuals Only.* An Independent Medallion Owner must drive his/her Taxicab a minimum of [150 seven-hour shifts] 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 10 years prior to turning age 62 and has met the Owner-Must-Drive requirements during that period.

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.

(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 [shifts]hours, [180] 900 [nine] hours [shifts] or [150]600 [seven] hours [shifts].

B. For purposes of determining compliance with the Owner-Must-Drive requirements, those requirements will be prorated on a monthly basis in any applicable calendar years to account for the 180 days for which compliance is excused.

[Example: An Owner subject to the 150 day driving requirement dies on December 1, 2011. The minimum applicable requirement for calendar year 2011 will be 137 shifts. The minimum applicable requirement for calendar year 2012 will be 87 shifts.]

§58-20(a)[(3)](2)	Fine: For number of missed	Appearance NOT
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	<p>[shifts] <u>hours</u> in any calendar year</p> <p>[\$10,000 if 51 shifts or more missed \$7,500 if at least 26 up to 50 shifts missed \$6,000 if at least 11 up to 25 shifts missed \$1,000 if 1 or more up to 10 shifts missed.]</p> <p><u>\$500 if 1 to 60 hours missed.</u> <u>\$1,000 if at least 61 up to 120 hours missed.</u> <u>\$2,000 if at least 121 up to 180 hours missed.</u> <u>\$4,000 if 181 or more hours missed.</u></p> <p>Commission can also seek revocation if [51 or more shifts missed] <u>there are violations for missed shifts spanning more than one calendar year.</u></p>	<p>REQUIRED</p>
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([4]3) Independent Driver Option[: Special Rule for Medallions Leased to Independent Medallion Drivers].

- (i) An Owner does not have to personally drive the minimum number of [shifts and]hours of operation for an Independent Medallion Owner as set forth in Section 58-20(a)([3]2)(i) of this Chapter if all of the requirements of this [Section 58-20(a)(4)] 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 [ten] five years and must meet the driving requirements of Section 58-20(a)([3]2) during [those ten years] 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) *[Service must be provided by Independent Medallion Driver.*
- A. An Independent Medallion Driver designated by the Owner must operate the Taxicab at least 180 nine-hour shifts in each calendar year.
 - B. A Driver is an Independent Medallion Driver if the Driver meets all of the following as to the Owner's Medallion:
 1. The Driver drives the Taxicab an average of at least 120 hours per month;
 2. The Driver is either
 - (i) the title owner of the Taxicab vehicle or
 - (ii) the lessee of the Taxicab vehicle and the vehicle lease has a conditional purchase agreement for the vehicle; and
 3. The Driver is not an Independent Medallion Driver for any other Independent Medallion.
- (iii) *Penalty* An Owner who provides the service required by section 58-20(a)(3) 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 \$[5,000] 1,000, unless the Owner is 62 or older at the time of election, in which case the penalty is \$[2,500]500.
- (iv) *Designating the Driver*
- A. The Owner must designate the Independent Medallion Driver who will provide the 180 nine-hour shifts before an Owner can receive the benefit of this section 58-20(a)(4).

- B. The Owner must designate the Independent Medallion Driver on a form specified by the Commission. An Owner will designate another Independent Medallion Driver by revoking the prior designation and filing a new designation.
- C. Only one designation can be in effect for any Independent Medallion at any time and there can be only one Independent Medallion Driver for any Independent Medallion at any time.
- D. An Owner can change the designated Independent Medallion Driver only one time each calendar year.
- E. An Owner can designate no more than two Independent Medallion Drivers for any Independent Medallion in any one calendar year.
- F. An Owner must immediately report to the Commission when the Owner has terminated or changed a designation or when a Driver ceases to be an Independent Medallion Driver for the Independent Medallion.

§58-20(a)(4)(iv)(F)	Fine: \$1000	Appearance NOT required]
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([v]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 November 1 of each year if the Owner elects to use the provisions of this [section 58-20(a)(4)] paragraph to provide service as required by [section 58-20(a)(3)(i)] paragraph two of this subdivision in the next calendar year.
- B. The Owner must have met the driving requirements of section 58-20(a)([4]3)(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 [section 58-20(a)(4)] paragraph, the Owner must also provide, at the same time [:
 1. The designation of the Independent Medallion Driver required in section 58-20(a)(4)(iv)

2. The payment for the \$5,000 or \$2,500 penalty required in section 58-20(a)(4)(iii)]

the payment for the \$1,000 or \$500 penalty required in section 58-20(a)(3)(iii).

[(vi)iv) *Owner Liable for non-performance.* If the Owner, or Owner's designated Independent Medallion Drivers fail to drive the minimum [180 nine-hour shifts] 900 hours, the Owner is liable for a violation of [section 58-20(a)(3)] paragraph two of this subdivision for that calendar year.

- A. The Owner's penalty will be determined by the number of [shifts] hours actually driven by the designated Independent Medallion Drivers plus any shifts driven by the Owner.

[(vii) *Owner Liable for non-compliance.* If the Owner fails to meet and continue to meet all the requirements of this section 58-20(a)(4) for use of the Independent Driver Option at all times in any calendar year, the Owner is liable for of a violation of section 58-20(a)[3] for that calendar year.

- A. The Owner's penalty will be determined by the number of shifts actually driven by the Owner.]

[(viii)y) *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)] paragraph 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)] 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 [section 54-20(a)(4)] 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.

([5]4)*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 [six] twelve months, and can grant extensions of those waivers for up to an additional [six] 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 [150 shifts] 750 cumulative hours in the calendar year granted.

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

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

RULE TITLE: Amendment of Owner Must Drive Rules

REFERENCE NUMBER: 2014 RG 106

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: December 23, 2014

**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: Amendment of Owner Must Drive Rules

REFERENCE NUMBER: TLC-73

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 rule violations arise from completed events, the consequences of which are immediate, which makes a cure period impracticable under the circumstances.

/s/ Francisco Navarro
Mayor's Office of Operations

December 23, 2014
Date