

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 which amend and add provisions to the existing rules governing the transfer of Street Hail Livery Licenses.

These rules are promulgated pursuant to sections 1043 and 2303 of the New York City Charter and section 19-503 of the Administrative Code of the City of New York.

On December 3, 2015, a public hearing on these rules was held by the TLC at the TLC’s offices at 33 Beaver St., 19th Floor, New York, New York. These rules were approved at the TLC’s public Commission Meeting held on December 3, 2015. These rules will take effect 30 days after publication.

STATEMENT OF BASIS AND PURPOSE OF RULE

The TLC has adopted rules that amend and add new sections to the existing rules governing the transfer of licenses for Street Hail Livery vehicles (also known as Boro Taxis or green cabs).

Historical Background of the Existing Boro Taxi Rules

On December 23, 2011 Governor Cuomo signed into law chapter 602 of the Laws of 2011, and on February 17, 2012, signed into law chapter 9 of the Laws of 2012 ("HAIL LAW"), which amended the previous statute. This legislation permits New York City to issue up to 18,000 transferable licenses to for-hire vehicles, authorizing them to pick up passengers by street hail anywhere outside Manhattan (except for the airports) and in Manhattan north of West 110th Street and north of East 96th Street.

The TLC promulgated rules that implemented the state legislation and became effective on June 2, 2012. The rules established the characteristics of the services that the new Street Hail Vehicles will provide to New York City residents. The purpose of the state legislation and the rules was to establish a new class of for-hire license which would improve access to safe, legal and convenient street hail service for New York City residents who live outside of the neighborhoods where yellow taxi service is generally available.

To date, the TLC has issued a total of 7,992 Street Hail Livery Licenses (SHL), including wheelchair accessible licenses. Since the inception of the SHL Licenses the TLC has had the opportunity to evaluate the processes and procedures relating to the licensing, issuance, enforcement and transfer of these licenses. Prior to the passage of these rules, there were two areas in which the TLC encountered issues in administering SHL licenses: (1) Livery Passenger Enhancement Project (LPEP) providers have reported that subsequent to the legitimate transfer of an SHL license to a third party the original vehicle may remain affiliated with the license while a second vehicle is also affiliated with the SHL license; (2) there were no existing rules which codified the TLC's current practice of permitting the administrator of an estate to operate a deceased SHL license holder's license.

After a review of these areas and feedback from the stakeholders, the TLC has adopted rules which modify the rules governing the SHL licensing and transfer process to better align with licensing requirements and address problems encountered by stakeholders.

Specifically, the adopted rules:

1. Require the removal of the LPEP system and taximeter from a Vehicle affiliated with an SHL License when that SHL License has been revoked, surrendered or not renewed.
2. Require that a notification be provided to the LPEP provider at least 30 days prior to the transfer of a SHL License.
3. Require that all SHL Licensees who seek to transfer their SHL License must resolve all summonses, outstanding fines and penalties owed to the TLC.

4. Establish procedures by which an estate may temporarily operate the SHL License of a deceased owner until a qualified applicant is found to purchase the license.

The Commission's authority for this rule is found in section 2303 of the New York City Charter and section 19-503 of the Administrative Code of the City of New York, as well as in the Hail Law.

New material is underlined.

[Material inside brackets indicates deleted material.]

Section 1. Subdivisions (e) through (k) of section 82-03 of Title 35 of the Rules of the City of New York are relettered subdivisions (f) through (l), subdivisions (l) through (n) are relettered subdivisions (o) through (q), and new subdivisions (e), (m) and (n) are added, to read as follows:

(e) *Legatee* means a person to whom any proceeds of an estate of a deceased person are to be distributed.

(m) A *Transferee* is an Applicant who is seeking approval from or has been approved by the Chairperson to own and operate a Street Hail Livery License in which the Applicant is acquiring an interest, either directly or indirectly, through a transfer described under §88-44 of these Rules.

(n) A *Transferor* is the Owner of an interest in a Street Hail Livery License being transferred.

Section 2. Paragraph (5) of subdivision (f) of section 82-11 of Title 35 of the Rules of the City of New York is amended to read as follows:

(5) Upon surrender, revocation or non-renewal of a Street Hail Livery License, the last For-Hire Vehicle affiliated with the Street Hail Livery License, if owned by the Street Hail Livery licensee, must be presented to the Commission's inspection facility [for the] to confirm removal of the license decal, the LPEP system and taximeter within ten days from the date of the surrender, revocation or non-renewal of the Street Hail Livery License. NOTE: A vehicle which will continue in use with another TLC-issued license (such as a For-Hire Vehicle License) will also be inspected to make sure the [meter has] LPEP system and taximeter have been removed and the vehicle repainted.

Section 3. Paragraph (4) of subdivision (b) of section 82-44 of Title 35 of the Rules of the City of New York is renumbered paragraph (6), and new paragraphs (4) and (5) are added, to read as follows:

(4) Transferring LPEP. The application for the transfer must include the following information regarding LPEP on forms approved by the Chairperson.

(i). Proof of Notice to LPEP Provider

A. The transferor must provide proof that notice of the transfer has been sent to the LPEP Provider that holds the contract to provide the LPEP for the Street Hail Livery License being transferred.

B. The notice must be:

1. Sent at least 30 days prior to the proposed date of the transfer (NOTE: The LPEP Provider may waive the 30 day requirement by signing the form),

2. Sent by certified mail, return receipt requested, and

3. Sent to the address specified in the contract.

C. Proof of notice will be:

1. A copy of the notice,

2. A copy of the certified mail receipt, and

3. An affidavit or affirmation under penalty of perjury verifying the mailing.

(ii) Transferor's Statement of Intent. The Transferor must provide a statement of intent on forms approved by the Chairperson to:

A. Cancel the contract with the LPEP Provider and Return the LPEP equipment to the LPEP Provider, or

B. Assign the contract to the Transferee and transfer the equipment to the Transferee, or

C. Retain the LPEP equipment, if the Transferee owns the LPEP equipment.

(iii) Transferee's Statement of Intent. The Transferee must provide a statement of transferee's intent on forms approved by the Chairperson to:

A. Assume the Transferor's contract with the LPEP Provider, or

B. Identify the approved LPEP Provider which the Transferee intends to use to provide LPEP.

(5) Clearance of open items. All open items against the Street Hail Livery Licensee (including any Business Entity Person if the Licensee is a Business Entity) must be cleared, including but not limited to summonses issued by the Commission, outstanding fines and penalties owed to the Commission or the Parking Violations Bureau (or their successors), and incomplete License renewal requirements.

Section 4. Section 82-45 of Title 35 of the Rules of the City of New York is amended by adding a new subdivision (c), to read as follows.

(c) Transfers – Special Provisions Regarding Estates and Incompetency

- (1) Notice. Notice of the death or the declaration of incompetency of a Street Hail Livery Licensee must be given to the Chairperson promptly upon the occurrence. A Street Hail Livery Licensee which is a Business Entity must also give prompt notice upon the death or the declaration of incompetency of a shareholder, partner, or member of a Business Entity.

82-45(c)(1)	Fine: \$250 for failure to comply	Appearance NOT REQUIRED
-------------	-----------------------------------	-------------------------

- (2) Distribution of Interest in Street Hail Livery License to a Legatee.

When a Street Hail Livery License(s) or an interest in a company or corporation that owns a Street Hail Livery License(s) is distributed from an estate, the Legatee recipient must qualify as a Transferee under the applicable rules of this Chapter, and must submit the following additional documents to the Commission:

- A. A certified copy of the death certificate of the former Licensee or Business Entity Person listed with the Commission;
- B. A certified copy of letters testamentary or letters of administration and, for an estate not in New York, a certified copy of ancillary letters testamentary or letters of administration covering the estate's New York property, which letters:
1. Must have been issued no earlier than six months prior to the date of submission; and
 2. The amount of estate assets that the Executor is authorized to administer must be in excess of the value of the Street Hail Livery License(s) that is to be operated or transferred.
- C. A certified copy of the will, if any.
- (3) Additional Requirements for Temporary Operation of a Street Hail Livery License.

(i) If an owner of an interest in a Street Hail Livery License dies or is declared incompetent by a court of competent jurisdiction, the Street Hail Livery License can continue to be operated by the administrator or representative of the owner or the owner's estate for up to 120 days following the date of death or declaration of incompetency.

(ii) The administrator or representative will have 120 days from the date of death or declaration of incompetency to transfer the Street Hail Livery License to a transferee that is qualified to own the Street Hail Livery License, as provided in this Chapter, and is approved to hold the Street Hail Livery License.

(iii) If no one has been approved by the Commission to hold the Street Hail Livery License by the end of the 120-day period, the Street Hail Livery License must be placed in storage until a qualified transferee is approved to hold the Street Hail Livery License.

<u>82-45(c)</u>	<u>Revocation may be ordered if Street Hail Livery License is operated beyond, or not transferred by, the periods specified.</u>	<u>Appearance NOT REQUIRED</u>
-----------------	--	--------------------------------