

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 (“TLC”) is considering changing its rules governing taxicab drivers and for-hire vehicle drivers. The change would increase penalties for taxicab drivers who: refuse to take a passenger to any destination within the City; seek to ascertain the destination of a passenger before the passenger is seated in the taxicab; or overcharge passengers. The rule change is authorized by Local Law 35 of 2011, which increases the maximum penalties for such violations.

When and where is the Hearing? The Commission will hold a public hearing on the proposed rule. The public hearing will take place at 10:00 a.m. on Thursday, July 21, 2011. The hearing will be in the Commission hearing room at 33 Beaver Street, 19th Floor, New York, NY 10004.

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 Hearing.** Anyone who wants to comment on the proposed rule at the public hearing 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 hearing begins on July 21, 2011 at 10:00 a.m. You can speak for up to three minutes.

Is there a deadline to submit written comments? Yes, you must submit written comments by July 15, 2011.

Do you need assistance to participate in the Hearing? 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, July 14, 2011.

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 at 33 Beaver Street, 22nd Floor, New York, NY 10004.

What authorizes the Commission to make this rule? Sections 1043 and 2303 of the City Charter and sections 19-503 and 19-507 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 the rule was not anticipated at the time the regulatory agenda was published.

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 Proposed Rule

Section 19-507 of the New York City Administrative Code sets mandatory penalties for certain violations. Taxi drivers are required to take passengers to any destination within New York City, and charge all passengers the legal rate of fare. Mandatory penalties apply when taxi drivers do not follow these requirements. These penalties are intended to discourage taxi drivers from violating these requirements because their customers need to feel secure that they will be taken to their destination and charged the legal rate of fare.

Unfortunately, refusals and overcharges by taxi drivers continue to occur despite the current mandatory penalties. To address this problem, the Mayor signed Local Law 35 of 2011, which increases the penalties for these violations.

This proposed rulemaking implements Local Law 35. Fines are currently \$200 - \$350 for a first violation; \$350 to \$500 and suspension of license for a second violation (any combination of violations); and license revocation for a third violation (any combination of violations). This proposed rulemaking increases the penalties for these violations, and allows for lesser penalties for guilty pleas prior to a hearing.

The proposed fines are:

- for a first violation, \$350 if plead guilty before a hearing and \$500 if found guilty following a hearing;
- for a second violation or combination of violations, \$700 if plead guilty before a hearing and \$1,000 and possible 30-day suspension if found guilty following a hearing; and
- for a third violation or combination of violations, \$750 and surrender of license if plead guilty before a hearing and \$1,000 and revocation of license if found guilty following a hearing.

(See table below for comparison between current and proposed penalties.)

Proposed Changes to Mandatory Penalties		
# of Violations	Current Penalties	Proposed Penalties
1 st Violation	\$200-\$350	<ul style="list-style-type: none"> • \$350 if plead guilty without a hearing; • \$500 if guilty after a hearing
2 nd Violation (or combination of violations)	\$350-\$500 and suspension of License up to 30 days	<ul style="list-style-type: none"> • \$700 if plead guilty without a hearing; • \$1,000 and possible 30-day suspension if guilty after a hearing
3 rd Violation (or combination of violations)	License Revocation	<ul style="list-style-type: none"> • \$750 and revocation of license if plead guilty before a hearing; • \$1,000 and revocation of license if found guilty following a hearing

The proposed rule also clarifies that the mandatory penalty for an overcharge or attempted overcharge of \$10.00 or more above the legal rate of fare is license revocation for a first violation.

The portion of the penalty related to driver education is deleted. An education course for refusals and overcharges is not needed at this time to implement the requirements of Local Law 35.

New material is underlined.

[Material inside brackets indicates deleted material.]

Section 1. It is proposed to amend section 54-02(e) of Title 35 of the Rules of the City of New York to read as follows:

§54-02 Penalties

(e) *Mandatory Penalties.* If a Licensee has violated a Rule listed below, or any combination of these Rules, the Commission will impose the following mandatory penalties and fines.

VIOLATION Description	Rule	Mandatory Penalty/Fine - ALL
1. Overcharging Passengers	§54-17(a)(1) & (2)	First violation: [\$200 –\$350] <u>\$350 if plead guilty before a hearing; \$500 if found guilty</u>

		<u>following a hearing.</u>
[2. Refusal of service – seeking destination before Passenger is seated inside vehicle]	[\$54-20(a)(4)]	<p>Second violation (any combination of violations) w/in 24 months: [\$350 – \$500 suspension of License up to 30 days] <u>\$700 if plead guilty before a hearing; \$1,000 and possible suspension of License for up to 30 days if found guilty following a hearing.</u></p> <p>Third violation (any combination of violations) w/in 36 months: [Revocation of License] <u>\$750 and Revocation of License if plead guilty before a hearing; \$1,000 and Revocation of License if found guilty following a hearing.</u></p> <p>[In addition, Drivers may be required to obtain a certificate of attendance for the required hours of instruction in taxi-related subjects at a Commission-approved school.]</p>
[3.] <u>2.</u> Refusal of service – Unjustified refusal to transport Passengers within NYC or defined counties	§54-20(a)(1)	
[4.] <u>3.</u> Refusal of service – Requiring assistant for disabled Passengers, or seeking to charge additional fares for such an assistant	§54-20(a)(2)	
[5.] <u>4.</u> Refusal of service – Refusing to transport a Passenger’s luggage, wheelchair, crutches, other mobility aid or other property	§54-20(a)(3)	
<u>5. Refusal of service – Seeking destination before Passenger is seated inside vehicle</u>	<u>§54-20(a)(4)</u>	

- (1) *\$10-or-More Overcharge.* [If] Notwithstanding the penalty cited above for overcharging passengers in violation of Rule 54-17(a)(1) and (2), if a Driver charges or attempts to charge \$10 or more above the approved rate of fare, the Commission will revoke the Driver’s License and may require a Driver to return any overpayment to the Passenger.

Section 2. It is proposed to amend section 54-17(a)(1)-(2) of Title 35 of the Rules of the City of New York to read as follows:

§54-17 Operations – Rates, Charges and Payment

- (a) *No Overcharges.*
- (1) A Driver must not charge or attempt to charge a fare above the Commission-approved rates.
- (2) A Driver must not impose or attempt to impose any additional charge for transporting a person with a disability, a service animal accompanying a person with a disability, or a wheelchair or other mobility aid.

§54-17(a)(1)-(2)	Mandatory penalties as set forth in §54-02	Appearance <u>NOT REQUIRED</u>
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Section 3. It is proposed to amend section 54-20(a)(1)-(4) of Title 35 of the Rules of the City of New York to read as follows:

§54-20 Operations – Refusing Passengers

(a) *Must Not Refuse to Transport Passengers.* Unless the Driver has justifiable grounds, the Driver must not refuse to transport in any of the following circumstances:

(1) *Mandatory Transport.* A Driver must not refuse by words, gestures or any other means, to take a Passenger, including a person with a disability and any service animal accompanying this individual, to any destination within the City of New York, the counties of Westchester or Nassau, or Newark Airport.

§54-20(a)(1)	(Mandatory penalties as set forth in §54-02)	Appearance <u>NOT REQUIRED</u>
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(2) *Attendant for Disabled Passengers.* A Driver must not require a person with a disability to be accompanied by an attendant. However, if a person with a disability is accompanied by an attendant, the Taxicab Driver must not impose or attempt to impose any additional charge for transporting the attendant.

§54-20(a)(2)	(Mandatory penalties as set forth in §54-02)	Appearance <u>NOT REQUIRED</u>
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(3) *Luggage and Mobility Aids.* A Driver must not refuse to transport a Passenger's luggage, wheelchair, crutches, other mobility aid or other property.

§54-20(a)(3)	(Mandatory penalties as set forth in §54-02)	Appearance <u>NOT REQUIRED</u>
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(4) *Destination in Advance.* A Driver must not attempt to learn the destination of a Passenger before the Passenger is seated in the Taxicab.

§54-20(a)(4)	(Mandatory penalties as set forth in §54-02)	Appearance <u>NOT REQUIRED</u>
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**NEW YORK CITY MAYOR’S OFFICE OF OPERATIONS
253 BROADWAY, 10th FLOOR
NEW YORK, NY 10007
212-788-1526**

**CERTIFICATION / ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)**

**RULE TITLE: Increase of Mandatory Penalties
REFERENCE NUMBER: TLC-9
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
- (ii) Does not provide a cure period because a cure period is not practicable under the circumstances.

/s/ Francisco Navarro
Mayor's Office of Operations

June 03, 2011
Date