

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. This change would create a new class of for-hire vehicle service called Premium Vehicle Service.

When and where is the Hearing? The Commission will hold a public hearing on the proposed rule. The public hearing will take place at 9:00 a.m. on Thursday, April 19, 2012. The hearing will be held at the Brooklyn Borough Hall, 209 Joralemon Street, Brooklyn, New York.

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 - 22th 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 April 19, 2012. You can speak for up to three minutes.

Is there a deadline to submit written comments? Yes, you must submit written comments by April 16, 2012.

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, April 12, 2012.

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 included in the Commission's regulatory agenda for this Fiscal Year.

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

This proposed rule creates a new class of livery service, Premium Livery Service. This new class of service is being created pursuant to the authority granted in N.Y.C. Administrative Code §19-503.

The City now licenses three types of for-hire bases to operate in the five boroughs:

- Luxury limousine bases, which operate distinctive luxury vehicles that customers often rent for a set length of time.
- Black car bases, another high-end service, that usually serve corporate clients with whom they have ongoing accounts.
- Community car services (also called “liveries”), which range widely in the clientele served, the prices charged and the type of vehicles dispatched. Liveries are patronized largely by individuals (rather than corporate accounts) and usually allow their drivers to pick up passengers, who typically pay for the service in cash, in their own vehicles.

These three groups have continued to evolve over the years to meet their customers’ needs. Specifically, black car bases, which traditionally serve corporate accounts, are getting more calls from individuals who want to book a car for personal use but also want to enjoy the high-end level of service to which they are accustomed from a black car base. To meet this demand a new business model that is a hybrid of the black car and community car services is emerging in the for-hire industry. This proposed rule amends TLC regulations to allow the operation of businesses that offer elements of both black car and community car services. By adapting its regulations to this emerging industry, TLC intends to encourage innovation and flexibility for businesses to meet this consumer demand for personal high-end service. In addition, the brand name of “Premium Livery Service” will indicate to consumers what service level and price they can expect from a company listed as a Premium Livery Service Base as compared to a traditional Livery Base.

Premium Livery Base Requirements

In contrast to existing livery bases, Premium Livery Service Base Stations will be required to meet their drivers’ workers’ compensation obligations by joining the Black Car Fund, which provides Workers’ Compensation insurance to Black Car operators in the state of New York. In addition, to qualify as a Premium Livery Service Base, the base must conduct at least 50 percent of its business on a contract basis.

Premium Livery Service Vehicles will be exempt from having the following features which are currently required for Livery vehicles:

- Base Station Affiliation Markings,
- Trouble lights,
- Protective Holders for Driver and Vehicle Licenses, and

- Camera and Partition Requirements.

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

“Shall” and “must” denote mandatory requirements and may be used interchangeably in the rules of this department, unless otherwise specified or unless the context clearly indicates otherwise.

Section 1. The definition of For-Hire Base set forth in section 51-03 of Title 35 of the Rules of the City of New York is amended and new definitions of Premium Livery Service Base, Premium Livery Service Vehicle, and Premium Livery Service Driver are added, to read as follows:

For-Hire Base (or “Base”) is the Commission-licensed business for dispatching For-Hire Vehicles and the physical location from which For-Hire Vehicles are dispatched; a For Hire Base can be any of the following:

- A Black Car Base,
- A Livery Base (or Base Station),
- A Luxury Limousine Base
- A Premium Livery Service Base.

Premium Livery Service Base (or Premium Base Station) is a “central dispatch facility” (as that term is defined in New York Executive Law §160-cc) and Livery Base Station that operates as follows:

- (1) All Premium Livery Service Vehicles affiliated with such Base have a seating capacity of 20 or fewer passengers.
- (2) Passengers are charged for service on the basis of a flat rate, time, mileage, and/or zones.
- (3) All Premium Livery Service Vehicles are owned by franchisees of the Business Entity that owns the Base or are members of a cooperative Business Entity that operates such Base, where such Base has certified to the satisfaction of the Chairperson, to satisfy membership in the Black Car Fund, that more than ninety percent (90%) of the Base’s business is on a payment basis other than direct cash payment by a passenger; and
- (4) At least fifty percent (50%) of the Base’s business is obtained through contract governing both future reservations and on demand trips.

Premium Livery Driver is a Licensed For-Hire Vehicle Driver driving a vehicle affiliated with a Premium Livery Service Base.

Premium Livery Service Vehicle is a For-Hire Vehicle affiliated with a **Premium Livery Service Base**.

Section 2. Subdivision (a) of section 59A-01 of Title 35 of the Rules of the City of New York is amended by adding a new paragraph (4), to read as follows:

(4) Premium Livery Service Vehicles

Section 3. Subdivisions (p) through (t) of section 59A-03 of Title 35 of the Rules of the City of New York are relettered subdivisions (s) through (v), new subdivisions (p) and (q) are added, and subdivision (e) is amended, to read as follows:

(e) **For-Hire Base (or “Base”)** is the Commission-licensed business for dispatching For-Hire Vehicles and the physical location from which For-Hire Vehicles are dispatched; a For Hire Base can be any of the following:

- A Black Car Base,
- A Livery Base (or Base Station),
- A Luxury Limousine Base
- A Premium Livery Service Base.

(p) **Premium Livery Service Base (or Premium Base Station)** is a “central dispatch facility” (as that term is defined in New York Executive Law §160-cc) and **Livery Base Station** that operates as follows:

(1) All Premium Livery Service Vehicles affiliated with such Base have a seating capacity of 20 or fewer passengers.

(2) Passengers are charged for service on the basis of a flat rate, time, mileage and/or zones.

(3) All Premium Livery Service Vehicles are owned by franchisees of the Business Entity which operates such Base or are members of a cooperative Business Entity that operates such Base, where such Base has certified to the satisfaction of the Chairperson, to satisfy membership in the Black Car Fund, that more than ninety percent (90%) of the Base’s business is on a payment basis other than direct cash payment by a passenger; and,

(4) at least fifty percent (50%) of the Base’s business is obtained through contract governing both

future reservations and on demand trips. Passengers are charged for service on the basis of a flat rate, time, mileage, and/or zones.

(q) **Premium Livery Driver** is a Licensed For-Hire Vehicle Driver driving a vehicle affiliated with a Premium Livery Service Base.

(r) **Premium Livery Service Vehicle** is a For-Hire Vehicle affiliated with a Premium Livery Service Base.

Section 4. Paragraph (5) of subdivision (g) of section 59A-29 of Title 35 of the Rules of the City of New York is amended to read as follows:

(g) *Base Station Affiliation Signs.* For-Hire Vehicles must identify their Affiliated Base Station on the exterior of the Vehicle as follows:

...

(5) *Exemption.* Luxury Limousines, [and] Black Cars and Premium Livery Service Vehicles are exempt from the requirements of this subdivision.

Section 5. Paragraph (3) of subdivision (a) of section 59A-30(a)(3) of Title 35 of the Rules of the City of New York is amended to read as follows:

(3) *Exception for Black Cars, [and] Luxury Limousines and Premium Livery Service Vehicles.*

(i) Black Cars, [and] Luxury Limousines and Premium Livery Service Vehicles must comply with all requirements of this subdivision (a) except that these Vehicles will not be required to have a protective holder mounted behind the driver's seat to display:

A. The For-Hire Vehicle Driver's License

B. The For-Hire Vehicle License

(ii) Those items must, however, be [displayed in the Vehicle in a way so as to be clearly visible from the Passenger seat and] available in the Vehicle for inspection by the Passenger upon request.

...

Section 6. Paragraph (2) of subdivision (d) of section 59A-31 of Title 35 of the Rules of the City of New York is amended to read as follows:

(d) *Distress Signaling Light - Livery Vehicle*

. . . .

(2) *Exemption.* A Vehicle will be exempt from the requirements of this subdivision if the Vehicle is affiliated with a Black Car Base [or], a Luxury Limousine Base or a Premium Livery Service Base.

Section 7. Paragraph (2) of subdivision (b) of section 59A-32 of Title 35 of the Rules of the City of New York is amended to read as follows:

§59A-32 Vehicle Equipment – Partitions for Livery Vehicles

. . . .

(b) *Exemptions.*

. . . .

(2) Black Cars, [and] Luxury Limousines and Premium Livery Service Vehicles are exempt from this requirement.

Section 8. Subdivision (a) of section 59B-01 of Title 35 of the Rules of the City of New York is amended by adding a new paragraph (4), to read as follows:

(4) Premium Livery Service Base

Section 9. Subdivisions (t) and (u) of section 59B-03 of Title 35 of the Rules of the City of New York are relettered subdivisions (w) and (x), subdivision (f) is amended, and new subdivisions (t), (u) and (v) are added, to read as follows:

(f) **For-Hire Base (or “Base”)** is the Commission-licensed business for dispatching For-Hire Vehicles and the physical location from which For-Hire Vehicles are dispatched; a For Hire Base can be any of the following:

- A Black Car Base,
- A Livery Base (or Base Station),

A Luxury Limousine Base
A Premium Livery Service Base.

(t) **Premium Livery Service Base (or Premium Base Station)** is a “central dispatch facility” (as that term is defined in New York Executive Law §160-cc) and Livery Base Station that operates as follows:

- (1) All Premium Livery Service Vehicles affiliated with such Base have a seating capacity of 20 or fewer passengers.
- (2) Passengers are charged for service on the basis of a flat fare, time, mileage, and/or zones.
- (3) All Premium Livery Service Vehicles are owned by franchisees of the Business Entity which operates such Base or are members of a cooperative Business Entity that operates such Base, where such Base has certified to the satisfaction of the Chairperson that more than ninety percent (90%) of the Base’s business is on a payment basis other than direct cash payment by a passenger; and
- (4) At least fifty percent (50%) of the Base’s business is obtained through contract governing both future reservations and on demand trips.

(u) **Premium Livery Driver** is a Licensed For-Hire Vehicle Driver driving a vehicle affiliated with Premium Livery Service Base.

(v) **Premium Livery Service Vehicle** is a For-Hire Vehicle affiliated with a Premium Livery Service Base.

Section 10. Paragraphs (1), (2), (3), (4), (5) and (6) of subdivision (b) of section 59B-12 of Title 35 of the Rules of the City of New York are amended to read as follows:

- (1) *Membership in the Black Car Operators’ Injury Compensation Fund.*
 - (i) Every Black Car Base, [and] Luxury Limousine Base and Premium Livery Service Base must become and remain a member of the Black Car Fund and must register with the Department of State as a Member of the Black Car Fund.
 - (ii) This provision does not apply to a Premium Livery Service Base, Black Car Base or Luxury Limousine Base that owns fifty percent (50%) or more of the Vehicles it dispatches.

§59B-12(b)(1)	Fine: \$[25]75 for each day of non-compliance, to a maximum of \$10,000, and either suspension until compliance or Base License revocation	Appearance REQUIRED
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(2) *Submit Certificate of Registration with the Fund.* Every Premium Livery Service Base, Black Car Base and Luxury Limousine Base must:

- (i) Provide the Commission with a copy of its certificate of registration with the Black Car Fund.
- (ii) Pay to the Department of State all fees due as required by State law.

§59B-12(b)(2)	Fine: \$[25]75 for each day of non-compliance, to a maximum of \$10,000, and either suspension until compliance or Base License revocation	Appearance REQUIRED
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(3) *Bill and Collect Surcharge.* Every Premium Livery Service Base, Black Car Base and Luxury Limousine Base member of the Black Car Fund must add the surcharge established by the Black Car Fund and required by State law to each invoice and billing for services and to each credit payment of services performed by a Vehicle affiliated with the Base for every trip:

- (i) Originating from a centralized dispatch facility located within the State of New York
- (ii) Originating from a point within the State of New York

§59B-12(b)(3)	Fine: \$[25]75 for each day of non-compliance, to a maximum of \$10,000, and either suspension until compliance or Base License revocation, together with revocation of Black	Appearance REQUIRED
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	Car Fund membership	
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- (4) *Remit Surcharges.* Every Premium Livery Service Base, Black Car Base and Luxury Limousine Base must forward to the Black Car Fund all surcharges due and owing under paragraph (3), above, no later than the 15th day of the month following the month in which the surcharge is collected.

§59B-12(b)(4)	Fine: \$500-\$5,000 for each 20 days the payment is overdue, and suspension until compliance or revocation, together with restitution to the Black Car Fund of any unpaid amount, together with interest at the rate of 12 percent per annum, together with revocation of Black Car Fund membership.	Appearance REQUIRED
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- (5) *Comply with all Rules of the Black Car Fund.* Every Premium Livery Service Base, Black Car Base and Luxury Limousine Base must comply with all applicable provisions of law governing the Black Car Fund, and all rules and regulations.

§59B-12(b)(5)	Fine: \$500-\$10,000 and suspension until compliance or revocation	Appearance REQUIRED
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- (6) *Enforcement at Black Car Fund's Request.* The Black Car Fund can ask the Commission to enforce these rules by filing a complaint against a Premium Livery Service Base, Black Car Base or Luxury Limousine Base. The complaint will include documentation of the violation.

Section 11. Paragraph (5) of subdivision (g) of section 59B-29 of Title 35 of the Rules of the City of New York is amended to read as follows:

- (g) *Livery Base Station Affiliation Signs.* A For-Hire Livery Vehicle must identify its affiliated Base Station on the outside of the Vehicle as follows:

...

- (5) *Exemption.* Luxury Limousines, [and] Black Cars and Premium Livery Service Vehicles are exempt from the requirements of this subdivision.

Section 12. Paragraph (3) of subdivision (a) of section 59B-30 of Title 35 of the Rules of the City of New York is amended to read as follows:

- (3) *Exception for Black Cars, [and] Luxury Limousines and Premium Livery Service Vehicles.*
- (iii) Black Cars, [and] Luxury Limousines and Premium Livery Service Vehicles must comply with all requirements of this subdivision (a) except that these Vehicles will not be required to have a protective holder mounted behind the driver's seat to display:
- A. The For-Hire Vehicle Driver's License
 - B. The For-Hire Vehicle License
- (iv) Those items must, however, be [displayed in the Vehicle in a way so as to be clearly visible from the Passenger seat and] available for inspection by the Passenger upon request.

...

Section 13. Paragraph (2) of subdivision (c) of section 59B-31 of Title 35 of the Rules of the City of New York is amended to read as follows:

- (2) *Exemption.* Vehicles affiliated only with a Black Car Base [or], a Luxury Limousine Base or a Premium Livery Service Base are not subject to this requirement.

Section 14. Paragraph (2) of subdivision (b) of section 59B-32 of Title 35 of the Rules of the City of New York is amended to read as follows:

- (2) Vehicles affiliated only with a Black Car Base, [or] a Luxury Limousine Base or a Premium Livery Service Base are not subject to this requirement.

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: Premium Livery Service Rules

REFERENCE NUMBER: TLC-23

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

March 13, 2012

Date

NEW YORK CITY LAW DEPARTMENT

100 CHURCH STREET

NEW YORK, NY 10007

212-788-1087

CERTIFICATION PURSUANT TO

CHARTER §1043(d)

RULE TITLE: Premium Livery Service Rules

REFERENCE NUMBER: 2012 RG 024

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

Date: March 12, 2012

Acting Corporation Counsel

