

## 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 proposing rules which would both amend and add provisions to the existing rules governing the transfer of Street Hail Livery Licenses in Chapter 82 of Title 35 of the Rules of the City of New York regarding the transfer of Licenses.

**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 December 3, 2015. This hearing will be held in the Commission's public hearing room at 33 Beaver St., New York, NY on the 19<sup>th</sup> Floor.

**How do I comment on the proposed rules?** Anyone can comment on the proposed rules by:

- **Mail.** You can mail comments to the Taxi and Limousine Commission, Office of Legal Affairs, 33 Beaver Street – 22<sup>nd</sup> Floor, New York, New York 10004.
- **Fax.** You can fax comments to the Taxi and Limousine Commission, Office of Legal Affairs, at 212-676-1102.
- **Email.** You can email comments to [tlcrules@tlc.nyc.gov](mailto: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](http://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 December 3, 2015. You can speak for up to three minutes.

**Is there a deadline to submit comments?** Yes, you must submit comments by November 27, 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 November 27, 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 RULE**

The TLC is proposing rules that would amend or 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. There are two areas in which the TLC has 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 are no existing rules which codify 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 believes that certain modifications of the rules governing the SHL licensing and transfer process are warranted to better align with licensing requirements and address problems encountered by stakeholders.

Specifically, the proposed 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>
-----------------	--	--------------------------------

**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 Street Hail Livery Transfer Rules**

**REFERENCE NUMBER: 2015 RG 072**

**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: July 9, 2015



**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS  
253 BROADWAY, 10<sup>th</sup> FLOOR  
NEW YORK, NY 10007  
212-788-1400**

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

**RULE TITLE: Amendment of Street Hail Livery Transfer Rules**

**REFERENCE NUMBER: TLC-83**

**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
- (i) Does not provide a cure period because a cure period is impracticable under the circumstances. Licensees are also given ample time to comply with requirements.

/s/ Francisco Navarro  
Mayor's Office of Operations

July 9, 2015  
Date