

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 regarding driver income and vehicle lease transparency.

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 October 3, 2018. The hearing will be in the hearing room at 33 Beaver Street – 19th Floor, New York, NY 10004.

The hearing room is wheelchair accessible and CART will be provided in the meeting room.

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. You can speak for up to three minutes.

Is there a deadline to submit written comments? Yes, you must submit written comments by September 28, 2018.

What if I 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. Advance notice is requested to allow sufficient time to arrange the accommodation. Please tell us by September 28, 2018.

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 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 laws 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

On Tuesday, August 14, 2018 Mayor de Blasio signed into law legislation that mandates these proposed rules. Intro 890-B reiterates the Agency's authority to establish a driver pay floor and Intro 144-B provides the same support for the Agency's authority to require the provision of certain data from for-hire vehicle (FHV) service providers. The proposed rules would provide protections relating to income and financial transparency to For-Hire-Vehicle (FHV) drivers and yellow taxi drivers.

FHV Drivers

As the number of Taxi & Limousine Commission (TLC) FHV drivers has grown by more than 80 thousand since 2014, drivers are working longer hours for fewer trips and less pay, while bearing a significant share of the expenses for providing for hire service. Over 80,000 drivers now drive for the four largest FHV companies in New York City, which operate through the apps Uber, Lyft, Gett/Juno, and Via (collectively the "Largest FHV Companies"). These four companies account for over 75% of FHV trips. Despite economic success of these companies, reflected in the massive growth in the number of trips in recent years from roughly 42 million trips in 2015 to nearly 159 million trips in 2017, the majority of drivers have not seen an increase in income.

Driver Earnings. Based on six hours of testimony provided during the April 2017 TLC Commission hearing on driver income and expenses, meetings with industry stakeholders, including driver groups, and a TLC survey of drivers, the TLC determined that driver earnings are falling. In response to this growing evidence of declining driver pay, TLC commissioned two labor economists from the Center for New York City Affairs at the New School and the University of California, Berkeley, respectively, to study the economics of New York City's FHV industry, including driver income and earnings ("the Report"), which is available at <http://www.centernyc.org/an-earnings-standard/>.

Using driver earnings data from the Largest FHV Companies, the report found that FHV driver median earnings declined by almost \$3.00 per hour from \$25.78 in September of 2016 to \$22.90 in October of 2017, a decrease of 11.17%. Eighty-five percent of these drivers are earning less than the equivalent of the \$15.00 minimum wage (which was determined to be \$17.22 to account for the fact that Largest FHV Companies treat these drivers as independent contractors and therefore, unlike employees, drivers are responsible for additional payroll taxes and do not receive paid time off).

Driver Expenses. As currently structured, the Largest FHV Companies' business model involves significant financial investment and risk on the part of drivers. The FHV Companies do not pay for the expenses of purchasing, leasing or operating a vehicle and most do not pay for labor outside of trips, i.e. while idle waiting for a dispatch, but these costs are substantial. From 2015-2017, over 30,000 vehicles with the current or prior model year were licensed as FHV's. At a purchase price of \$25,000 – roughly the market price of a Toyota Camry, the most common vehicle used for-hire – that amounts to \$750,000,000 drivers have invested purchasing new cars

before any financing is taken into account. Also, because companies classify drivers as independent contractors and not employees, they avoid common employer requirements such as paid time off, health care, and collective bargaining.

A significant portion of each fare drivers receive must go toward covering their vehicle costs and other expenses. The average cost for a driver to license, register, and operate a 2017 Toyota Camry is at least \$400 per week, adding up to over \$20,000 per year. Unlike drivers in other markets, these are vehicle expenses many drivers would not have were they not driving for hire. Eighty percent of drivers took on the significant cost of car ownership and maintenance mainly to earn a living by driving. In New York City, the majority of TLC-licensed drivers drive for over 30 hours per week. Sixty-five percent of drivers work full time and 54 percent are the primary earner in their household.

The Report confirmed the need for action to protect drivers against further decreases in their earnings. To reverse the trends of declining earnings and trips per driver, the proposed rules address pay per trip as a function of both expenses and compensation, as well as how often drivers are on a trip per working hour, a factor referred to as utilization.

The commission hearing and stakeholder input also underscored the need for more transparency in the financial relationships among FHV drivers, vehicle owners, and bases. This need is also reflected in the proposed rules.

Proposed Driver Pay Rules. TLC is proposing rules to protect driver earnings. The proposed driver earnings policy is as follows:

- **Minimum Per-trip Payment Formula.** TLC's proposed rules would establish a minimum per-trip payment formula to provide drivers a minimum take-home pay after covering their expenses and taking into account drivers' time, both time spent driving passengers, and time spent waiting for a dispatch and then traveling to pick up passengers. These two latter factors will be considered a base's Utilization Rate, and calculated by dividing the total amount of time drivers spend transporting passengers on trips dispatched by the base by the total amount of time drivers are available to accept dispatches from the base.
- The proposed policy would establish a means for determining the minimum amount the Largest FHV Companies must pay a driver per trip. This would result in estimated typical gross hourly earnings before expenses of at least \$25.76 per hour. The minimum driver pay would be determined using one of the below formulas, developed with both the expenses of non-accessible vehicles (non-WAVs) and the higher expenses of wheelchair-accessible vehicles (WAVs) in mind. The non-WAV formula would apply to trips performed in vehicles that are not equipped to transport passengers in wheelchairs (non-WAVs), and the WAV formula would apply to trips performed in vehicles equipped to transport passengers in wheelchairs (WAVs):

$$\text{Non - WAV Per Trip Driver Pay} = \left(\frac{\$0.580 \times \text{Trip Miles}}{\text{Company Utilization Rate}} \right) + \left(\frac{\$0.287 \times \text{Trip Minutes}}{\text{Company Utilization Rate}} \right) + \text{Shared Ride Bonus}$$

$$\text{WAV Per Trip Driver Pay} = \left(\frac{\$0.803 \times \text{Trip Miles}}{\text{Company Utilization Rate}} \right) + \left(\frac{\$0.287 \times \text{Trip Minutes}}{\text{Company Utilization Rate}} \right) + \text{Shared Ride Bonus}$$

- **Sample Calculation.** For an unshared, non-WAV trip that is 7.5 miles and 30 minutes long at the current industry-wide average utilization of 58%, you would see the following result:

$$\frac{(\$0.580 * 7.5 \text{ miles})}{.58 \text{ utilization}} + \frac{(\$0.287 * 30 \text{ minutes})}{.58 \text{ utilization}} = \$22.34$$

Alternatively, for the same trip in an unshared, non-WAV dispatched by a base with a utilization of 70%, you would see the following result:

$$\frac{(\$0.580 * 7.5 \text{ miles})}{.70 \text{ utilization}} + \frac{(\$0.287 * 30 \text{ minutes})}{.70 \text{ utilization}} = \$18.51$$

- **Covering Driver Expenses and Ensuring Minimum Compensation.** The non-WAV formula requires a minimum payment of \$0.580 for each mile of a trip, divided by a company-specific utilization rate, to cover a typical driver's expenses, such as vehicle purchase or lease, fuel, maintenance and insurance. Given their higher purchase and operating costs, wheelchair-accessible vehicles have a higher per mile rate of \$0.803 divided by a company-specific utilization rate. The formula also requires a minimum payment of \$0.287 for each minute the driver spends transporting passengers, divided by a company-specific utilization rate, to ensure a minimum compensation after expenses taking into account working time spent without a passenger. For a typical non-WAV driver, this results in gross earnings of \$25.76 per hour and net income of \$17.22 per hour after expenses. This figure is the equivalent of \$15 per hour for a regular employee. The additional \$2.22 accounts for the 7.65 percent (\$1.32 per hour) drivers must pay in payroll taxes (covered by employers for their employees) plus 6 percent (\$0.90 per hour) for paid time off (representing the average time off compensation value as a share of a transportation industry worker's overall compensation according to the U.S. Bureau of Labor Statistics).
- **Driver Utilization.** The proposed rules would also account for the percentage of a driver's on-duty time that is spent with a passenger in their car, or utilization. The per-mile and per-minute driver expense and compensation rates would be tailored to each of the Largest FHV Companies based on how frequently each company sends trips to their drivers while they are available to work. The companies with lower utilization rates would be required to pay higher driver compensation per trip to offset the time their drivers are waiting for a dispatch. The TLC will assess the driver utilization of each of

the Largest FHV Companies on a regular basis and adjust and make public the company's per-mile and per-minute driver compensation rates accordingly.

- **Shared Rides.** Drivers often do not benefit financially from providing shared rides; the 40 percent of drivers with the lowest estimated hourly earnings disproportionately provide shared rides. To compensate drivers for the additional time and customer service required to provide efficient for-hire service, each pick-up for a shared ride would entitle the driver to a Shared Ride Bonus, in addition to minimum mile and minute rates. The TLC will set the Shared Ride Bonus value and post it on the TLC's website after analyzing driver income and expenses for shared rides and the occupancy rates for vehicles performing shared rides.

Scope of Driver Pay Rules. The proposed rules would apply to the Largest FHV Companies, defined as bases operating under the same "doing business as" name, dispatching at least 10,000 trips per day. In 2016 and 2017, the four Largest FHV Companies accounted for more than 75 percent of all FHV trips, providing more than 400,000 average daily trips as a group in 2017. In comparison, the highest total for the fifth largest FHV company was fewer than 3,000 average daily trips. The Largest FHV Companies' fleets also work with significantly more vehicles than their smaller competitors. Large companies have achieved the economies of scale that enable them to make the financial, operational or other adjustments necessary to accommodate the driver earnings policy proposed in these rules.

Impact of Driver Pay Rules. In addition to their analysis of TLC data, the labor economists retained by TLC conducted a prospective economic impact analysis of the proposed per trip payment formula and determined that this policy would benefit drivers with minimal disruption to passengers. This policy is expected to lead to an effective raise for over 68,000 of the drivers working for the Largest FHV Companies. The bottom 25% of drivers earned \$13.16 or less per hour after expenses in 2017, meaning a quarter of drivers (about 15,000) would receive at least an average \$4.00 per hour raise with this new policy. The next quartile would receive at least an additional \$3.00 per hour on average. The policy would result in an average 22.5 percent increase in take-home pay or about \$6,345 annually per driver, or from \$14.06 net per hour to \$17.22 net per hour. After an hour of work, typical gross earnings would be about \$25.76. Typical earnings after expenses would be \$17.22 per hour.

Enforcement. To enforce these proposed rules, TLC will investigate and prosecute driver complaints and audit trip records on a regular basis. TLC will require the Largest FHV Companies to submit additional information on driver pay, passenger fares, driver working time, and trip distance to facilitate these audits and inform future policymaking. The Largest FHV Companies will also be required to provide driver receipts that list the applicable per-minute and per mile rates, the number of miles for each trip and the number of minutes for each trip so that drivers can determine whether they were paid at least the minimum amount required by this rule.

Expanding Pay and Expense Transparency. TLC rules have long included transparency requirements for financial transactions between drivers and yellow taxi owners. These requirements provide yellow taxi drivers the information to understand all charges a fleet may impose and allow TLC to effectively investigate allegations of fleet overcharges.

Specifically, the TLC's Driver Protection Unit regularly receives transparency and fairness-related complaints from taxi drivers that can be addressed with existing rules. These complaints frequently concern vehicle owners failing to return vehicle security deposits, vehicle owners and fleets charging fees not clearly listed in driver leases or agreements, and vehicle owners and fleets not providing a clear explanation of earnings and fees on written receipts. Relying on the taxi owner rules set forth in Chapter 58, the Driver Protection Unit has successfully enforced taxi driver rights to transparency and fairness with prosecutions resulting in over \$2.5 million in restitution for drivers who did not receive money that they were due.

These protections do not currently exist in the FHV sector, and TLC's Driver Protection Unit does not always have the legal tools available to address valid concerns brought to them by FHV drivers.

Proposed Rules to Expand Financial Transparency for Drivers. TLC is proposing rules setting requirements for all FHV bases and all FHV vehicle owners that would ensure transparency for FHV drivers in these financial relationships. The transparency rules will apply to all FHV bases, regardless of size.

For vehicle owners who lease their FHV, the proposed rules require:

- Leases be written in plain language
- Leases specify all costs to drivers
- Where the owner of the vehicle is a different person than the driver of the vehicle, the rules require that the owners pay drivers' earnings in a timely manner
- Owners provide drivers with receipts itemizing all payments, deductions and charges
- Owners maintain for three years records of their financial relationship with drivers.

For FHV base owners, the proposed rules require:

- Agreements with drivers and FHV owners be written in plain language
- Agreements specify all costs to drivers and vehicle owners
- Bases provide an itemized breakdown of how much the driver earned and how much the driver's passenger fares amounted to, as well as all driver expense information available to the base
- Bases provide requisite 1099 forms that include the total mileage for trips covered by the Form 1099-K
- Bases pay driver earnings in a timely manner
- Bases provide drivers and vehicle owners with receipts itemizing all payments, deductions and charges
- Bases maintain for three years all records of their financial relationship with drivers and vehicle owners.

Taxi Drivers

Expanding Taxi Driver Pay Protections. TLC also received feedback from yellow and green taxi drivers about their income and expenses. TLC is proposing several changes to rules related to yellow and green taxi operation to increase existing driver income protections in that sector. For example, the proposed amendments to TLC's credit card processing rules reduce from \$11 to \$7, the daily maximum credit card surcharge that fleets could charge, which could save a full-time driver more than \$1000 per year. Other proposed changes provide greater financial transparency, opportunities for additional trips and higher incentives, such as an increase of all Accessible Dispatch fee payments, as well as expanded financial restitution.

Specifically, the proposed rules:

- Reduce the maximum amount taxi lessors may charge taxi lessees for credit card processing
- Allow TLC to update the per-trip Accessible Dispatch Fee payable to drivers of accessible vehicles more regularly via TLC's website, making it easier to increase the fees
- Require pro-rated leases when taxis are unavailable through no fault of the driver and allow taxi lessors to offer pro-rated leases for shifts under 12 hours
- Eliminate the prohibition against e-hailing yellow taxis at JFK and LaGuardia airports
- Protect green taxi vehicle owners from retaliation for making complaints against green taxi license owners
- Require vehicle owners to compensate drivers for the cost of damage to the taxi that the driver paid to the vehicle owner when the owner was later reimbursed through a separate source
- Remove any possible discrepancy from the fare total displayed on the taximeter with the fare total displayed on the Passenger Information Monitor display in the back of the vehicle by requiring taximeters to display the total sum of the fare at the end of trip to reduce confusion for drivers and passengers
- Afford mandatory restitution to taxi drivers for situations in which the driver has leased a taxi from a lessor and where that lessor failed to meet the terms of the lease and that failure led to additional expenses for the taxi driver. That restitution would be mandated in addition to any fines that were also assessed against the vehicle lessors for the underlying rule violation.

To provide additional financial transparency for drivers entering into a conditional purchase agreement for a taxi medallion vehicle pursuant to TLC rule 58-21(c)(4), the proposed rules also:

- Require that such agreements specify the purchase price of the vehicle and the total itemized cost, including interest and fees, payable to the owner or agent, based on the payment terms contained therein;
- Provide restitution as a remedy, in addition to the existing penalty, when drivers are charged a security deposit in excess of the amount permitted by TLC rules; and
- Provide restitution as a remedy, in addition to the existing penalty, when security deposits are not returned to drivers as required by TLC rules.

TLC’s authority for these rules is found in section 2303 of the New York City Charter and section 19-503 of the New York City Administrative Code.

New material is underlined.
[Deleted material is in brackets.]

“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 “Dispatch Fee” in section 51-03 of Title 35 of the Rules of the City of New York is amended to read as follows:

Dispatch Fee is the fee payable to the Driver of an Accessible Taxicab, according to the Dispatch Fee schedule, for completing or attempting to complete a trip dispatched by the Accessible Taxi Dispatcher. The Dispatch Fee schedule, including cancellation fees and passenger no-show fees, will be determined by the Commission, and posted on the Commission’s website, every six months based on a review of available funds and the Accessible Taxi Dispatcher’s service rates.

[The Dispatch Fee is based on the distance travelled by the Driver between acceptance of the trip dispatch and arrival at the Passenger pickup location. The Dispatch Fee will compensate the Driver for the distance travelled to the Passenger location, as well as time spent waiting for and assisting the Passenger into and out of the vehicle, assumed to be an average of ten minutes, paid at the existing Rates of Fare for time.

Any tolls incurred by the driver in traveling to the pickup location will be added to the Dispatch Fee, at EZ-Pass rates and following the routing provided by the Accessible Taxi Dispatcher. The Dispatch Fee will be calculated based on the location of Passenger pickup, following the schedules below:

For trips with a Passenger pickup location in Manhattan:

Maximum Distance (miles)	Dispatch Fee
Up to 0.5	\$10.00
0.5 - 1	\$15.00
1 - 1.5	\$20.00
1.5 – 2	\$25.00
More than 2	\$30.00
Passenger No-Show	Fee above plus \$5.00
Cancellation Fee	Fee above minus \$5.00
Necessary Tolls	Added to fee above at EZ-Pass rate

For trips with a Passenger pickup location outside of Manhattan:

Maximum Distance (miles)	Dispatch Fee
Up to 0.5	\$6.00
0.5 – 1	\$10.00
1 – 2	\$12.50
2 – 3	\$15.00
3 – 5	\$20.00
More than 5	\$25.00
Passenger No-Show	Fee above plus \$5.00
Cancellation Fee	Fee above minus \$5.00
Necessary Tolls	Added to fee above at EZ-Pass rate

The \$5 Passenger No-Show Fee applies if the Passenger does not appear at the pickup location within ten minutes of driver’s arrival for on-demand trips or within ten minutes of the scheduled pickup time for reservation trips.

The Cancellation Fee applies if the Passenger cancels the trip after the Driver has traveled more than 0.5 miles to the Passenger pickup location following acceptance of the trip. The Cancellation Fee will be calculated by subtracting \$5.00 from the appropriate Dispatch Fee for the distance traveled by the Driver at the time of cancellation.

Example: The Driver of a Taxi making a trip of more than 2 miles to pick up a Passenger and the Passenger cancels the trip after the Driver has traveled at least half a mile will receive a net Dispatch Fee of \$25.00 (\$30.00 less the \$5.00 Cancellation Fee).

A Driver will not be entitled to collect more than two combined Cancellation and No-Show Fees in any Monday through Sunday weekly period.]

Section 2. Subdivision (e) of section 53-03 of Title 35 of the Rules of the City of New York is amended to read as follows:

- (e) *Dispatch Fee.* The “Dispatch Fee” is the fee payable to the Driver of an Accessible Vehicle, according to the Dispatch Fee schedule, for completing or attempting to complete a trip dispatched by the Accessible Taxi Dispatcher. The Dispatch Fee schedule, including cancellation fees and passenger no-show fees, will be determined by the Commission, and posted on the Commission’s website, every six months based on a review of available funds and the Accessible Taxi Dispatcher’s service rates. [The Dispatch Fee is based on the distance travelled by the Driver between acceptance of the trip dispatch and arrival at the Passenger pickup location. The Dispatch Fee will compensate the Driver for the distance travelled to the Passenger location, as well as time spent waiting for and assisting the Passenger into and out of the vehicle, assumed to be an average of ten minutes, paid at the existing Rates of Fare for time.

Any tolls incurred by the driver in traveling to the pickup location will be added to the Dispatch Fee, at EZ-Pass rates and following the routing provided by the Accessible Taxi Dispatcher. The Dispatch Fee will be calculated based on the location of Passenger pickup, following the schedules below:

For trips with a Passenger pickup location in Manhattan:

Maximum Distance (miles)	Dispatch Fee
Up to 0.5	\$10.00
0.5 - 1	\$15.00
1 - 1.5	\$20.00
1.5 – 2	\$25.00
More than 2	\$30.00
Passenger No-Show	Fee above plus \$5.00
Cancellation Fee	Fee above minus \$5.00
Necessary Tolls	Added to fee above at EZ-Pass rate

For trips with a Passenger pickup location outside of Manhattan:

Maximum Distance (miles)	Dispatch Fee
Up to 0.5	\$6.00
0.5 – 1	\$10.00
1 – 2	\$12.50
2 – 3	\$15.00

3 – 5	\$20.00
More than 5	\$25.00
Passenger No-Show	Fee above plus \$5.00
Cancellation Fee	Fee above minus \$5.00
Necessary Tolls	Added to fee above at EZ-Pass rate

The \$5 Passenger No-Show Fee applies if the Passenger does not appear at the pickup location within ten minutes of driver’s arrival for on-demand trips or within ten minutes of the scheduled pickup time for reservation trips.

The Cancellation Fee applies if the Passenger cancels the trip after the Driver has traveled more than 0.5 miles to the Passenger pickup location following acceptance of the trip. The Cancellation Fee will be calculated by subtracting \$5.00 from the appropriate Dispatch Fee for the distance traveled by the Driver at the time of cancellation.

A Driver will not be entitled to collect more than two combined Cancellation and No-Show Fees in any Monday through Sunday weekly period.]

Section 3. Subdivision (h) of section 58-03 of Title 35 of the Rules of the City of New York is amended to read as follows:

- (h) *Dispatch Fee* is the fee payable to the Driver of an Accessible Taxicab, according to the Dispatch Fee schedule, for completing or attempting to complete a trip dispatched by the Accessible Taxi Dispatcher. The Dispatch Fee schedule, including cancellation fees and passenger no-show fees, will be determined by the Commission, and posted on the Commission’s website, every six months based on a review of available funds and the Accessible Taxi Dispatcher’s service rates. [The Dispatch Fee is based on the distance travelled by the Driver between acceptance of the trip dispatch and arrival at the Passenger pickup location. The Dispatch Fee will compensate the Driver for the distance travelled to the Passenger location, as well as time spent waiting for and assisting the Passenger into and out of the vehicle, assumed to be an average of ten minutes, paid at the existing Rates of Fare for time.

Any tolls incurred by the driver in traveling to the pickup location will be added to the Dispatch Fee, at EZ-Pass rates and following the routing provided by the Accessible Taxi Dispatcher. The Dispatch Fee will be calculated based on the location of Passenger pickup, following the schedules below:

For trips with a Passenger pickup location in Manhattan:

Maximum Distance (miles)	Dispatch Fee
Up to 0.5	\$10.00
0.5 - 1	\$15.00

1 - 1.5	\$20.00
1.5 – 2	\$25.00
More than 2	\$30.00
Passenger No-Show	Fee above plus \$5.00
Cancellation Fee	Fee above minus \$5.00
Necessary Tolls	Added to fee above at EZ-Pass rate

For trips with a Passenger pickup location outside of Manhattan:

Maximum Distance (miles)	Dispatch Fee
Up to 0.5	\$6.00
0.5 – 1	\$10.00
1 – 2	\$12.50
2 – 3	\$15.00
3 – 5	\$20.00
More than 5	\$25.00
Passenger No-Show	Fee above plus \$5.00
Cancellation Fee	Fee above minus \$5.00
Necessary Tolls	Added to fee above at EZ-Pass rate

The \$5 Passenger No-Show Fee applies if the Passenger does not appear at the pickup location within ten minutes of driver’s arrival for on-demand trips or within ten minutes of the scheduled pickup time for reservation trips.

The Cancellation Fee applies if the Passenger cancels the trip after the Driver has traveled more than 0.5 miles to the Passenger pickup location following acceptance of the trip. The Cancellation Fee will be calculated by subtracting \$5.00 from the appropriate Dispatch Fee for the distance traveled by the Driver at the time of cancellation.

Example: The Driver of a Taxi making a trip of more than 2 miles to pick up a Passenger and the Passenger cancels the trip after the Driver has traveled at least half a mile will receive a net Dispatch Fee of \$25.00 (\$30.00 less the \$5.00 Cancellation Fee).

A Driver will not be entitled to collect more than two combined Cancellation and No-Show Fees in any Monday through Sunday weekly period.]

Section 4. Subdivision (a) of section 58-21 of Title 35 of the Rules of the City of New York is amended by adding a new paragraph (3), to read as follows:

- (3) Written records required under this section must be provided to Driver and must be maintained in either a hard copy or electronic format.

Section 5. The penalty box of paragraph (3) of subdivision (b) of section 58-21 of Title 35 of the Rules of the City of New York, prohibiting a charge to a Driver/lessee for the service and maintenance of a leased taxicab, is amended to read as follows:

§58-21(b)	First violation \$500 Second and subsequent violations: \$1000 and/or suspension of the Medallion for up to 30 days. In addition to the penalty payable to the Commission, the administrative law judge [may] <u>must</u> order the owner to pay restitution to the driver, equal to the excess that was charged to the driver.	Appearance REQUIRED
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Section 6. Paragraph (1) of subdivision (c) of section 58-21 of Title 35 of the Rules of the City of New York is amended by adding a new subparagraph (vii), to read as follows:

- (vii) For a Driver with a daily lease operating under 58-21(c)(1)(i)(A)-(D), the lessor may offer pro-rated leases for shifts of under 12 hours. The lessor must pro-rate the lease if the vehicle is unavailable for use for any reason that is not the lessee’s responsibility during any part of the 12 hour shift, including the return of the vehicle from the previous shift.

Section 7. Paragraph (2) of subdivision (c) of section 58-21 of Title 35 of the Rules of the City of New York is amended by adding a new subparagraph (vii), to read as follows:

- (vii) For a Driver with a daily lease operating under 58-21(c)(2)(i)(A)-(D), the lessor may offer pro-rated leases for shifts of under 12 hours. The lessor must pro-rate the lease if the vehicle is unavailable for use for any reason that is not the lessee’s responsibility during any part of the 12 hour shift, including the return of the vehicle from the previous shift.

Section 8. Subparagraph (v) of paragraph (4) of subdivision (c) of section 58-21 of Title 35 of the Rules of the City of New York is amended by adding a new clause (I), to read as follows:

- I. If the Driver does not opt to receive coverage for collisions and physical damage pursuant to G above, and a Medallion lessor or Agent receives compensation for damages to the vehicle incurred from an entity other than the Driver, any amount previously paid by the Driver as compensation for damages or paid by the Driver in order to repair damages to the vehicle must be refunded to the Driver.

Section 9. Subparagraph (xi) of paragraph (5) of subdivision (c) of section 58-21 of Title 35 of the Rules of the City of New York is amended to read as follows:

- (xi) Credit Card Processing Surcharge for Leases entered into pursuant to 58-21(c)(1), 58-21(c)(2), 58-21(c)(3), or 58-21(c)(4) of these Rules:
 - A. For daily leases under 58-21(c)(1) and 58-21(c)(2), an Owner of a Taxicab can charge a [\$11] \$7 surcharge per shift for credit card processing.
 - B. For weekly leases under 58-21(c)(1) [and] 58-21(c)(2), ~~58-21(c)(3), and 58-21(c)(4)~~, an Owner of a Taxicab can charge a [\$66] \$49 surcharge per week for credit card processing.
 - [C. For leases under 58-21(c)(3) and 58-21(c)(4), an Owner of a Taxicab can charge a \$132 surcharge per week for credit card processing.
 - D. Beginning on January 1, 2013, each June and December, the TLC will review the TPEP systems' data to determine average credit card usage per shift. The TLC will review only the data for shifts at least seven hours long. Payments made by credit card shall be the entire amount paid by the passenger, as determined from the TPEP records reviewed. If, under this review, the amount of the average credit card usage per daily shift exceeds \$200, the TLC will propose and support:

a rule seeking an adjustment to the Credit Card Surcharge for daily leases under 58-21(c)(1), 58-21(c)(2), 58-21(c)(3) and 58-21(c)(4) so that it is equivalent to 5% of the average credit card usage per shift for the preceding four months, rounded to the nearest whole dollar;

a rule seeking a similar adjustment to the Credit Card Surcharge for weekly leases under 58-21(c)(1) and 58-21(c)(2) by multiplying the per shift surcharge by six; and

a rule seeking a similar adjustment to the Credit Card Surcharge for Medallion-only and Medallion and Vehicle leases under 58-21(c)(3) and 58-21(c)(4) by multiplying the shift rate surcharge by twelve.

For example, if the average credit card usage per shift, using the criteria set forth above, is \$200, the per shift surcharge shall be \$10 (\$60 per week, \$120 per week for a lease under 58-21(c)(3) and (4)). If the average credit card usage per shift is \$240, the per shift

surcharge shall be \$12 (\$72 per week, \$144 per week for a lease under 58-21(c)(3) and (4)).

E. Upon enactment of any rule that changes the Credit Card Surcharge, the TLC will issue an industry notice setting forth the new Credit Card Surcharge.

F. Notwithstanding the results of the review(s) above, the TLC will not adjust, propose, or seek an adjustment to Credit Card Surcharges to any amount less than \$10 for any daily lease entered into pursuant to 58-21(c)(1), 58-21(c)(2), or less than \$60 for any weekly lease entered into pursuant to 58-21(c)(1), 58-21(c)(2), or less than \$120 for any lease entered into pursuant 58-21(c)(3) and 58-21(c)(4), irrespective of the average credit card usage per shift.]

Section 10. The penalty box of paragraph (7) of subdivision (c) of section 58-21 of Title 35 of the Rules of the City of New York, establishing the collective bargaining exception to the standard lease cap, is amended to read as follows:

§58-21(c)(7)	Fine: First violation: \$500 Second and subsequent violations; \$1,000 and/or suspension of the Medallion for up to 30 days. In addition to the penalty payable to the Commission, the ALJ [can] <u>must</u> order the Owner to pay restitution to the Driver, equal to the excess that was charged to the Driver or the extra fuel the driver had to pay for.	Appearance REQUIRED
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Section 11. The penalty box of paragraph (3) of subdivision (e) of section 58-21 of Title 35 of the Rules of the City of New York, prohibiting an Owner from requiring a Driver to pay a summons written to the Owner as respondent, is amended to read as follows:

§58-21(e)(3)	Fine: First violation: \$250; Second violation: \$350; Third and subsequent violations \$500 and/or suspension of the Medallion for up to thirty days. In addition to the penalty payable to the Commission, the ALJ [can] <u>must</u> order the Owner to pay restitution to the Driver, equal to the excess that was withheld from the Driver, or equal to the amount that the Driver paid, at the requirement of the Owner, to satisfy any summons against the Owner.	Appearance REQUIRED
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Section 12. The penalty box of paragraph (4) of subdivision (e) of section 58-21 of Title 35 of the Rules of the City of New York, prohibiting taxicab security deposits in excess of the lesser of one lease term or one weekly lease payment, is amended to read as follows:

§58-21(e)(4)	Fine: \$200 <u>In addition to the penalty payable to the Commission, the Hearing Officer must order the lessor to pay restitution to</u>	Appearance NOT REQUIRED
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	<u>the Driver, equal to the amount charged to the Driver in violation of this rule.</u>	
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Section 13. The penalty box of paragraph (6) of subdivision (e) of section 58-21 of Title 35 of the Rules of the City of New York, requiring that taxicab security deposits be returned within 30 days of lease termination, is amended to read as follows:

§58-21(e)(6)	Fine: \$50 <u>In addition to the penalty payable to the Commission, the Hearing Officer must order the lessor to pay restitution to the Driver, equal to the amount not returned to the Driver in violation of this rule.</u>	Appearance NOT REQUIRED
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Section 14. The penalty box of paragraphs (1) and (2) of subdivision (f) of section 58-21 of Title 35 of the Rules of the City of New York, requiring the Owner to pay the Driver for all non-cash payments, is amended to read as follows:

§58-21(f)(1)&(2)	Fine: \$100 In addition to the penalty payable to the Commission, the ALJ [may] <u>must</u> order the Owner to pay restitution to the Driver, equal to the cost to the Driver.	Appearance NOT REQUIRED
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Section 15. The penalty box of paragraph (3) of subdivision (f) of section 58-21 of Title 35 of the Rules of the City of New York, prohibiting the Owner from withholding payments from any credit card pass-along, fees or charges, is amended to read as follows:

§58-21(f)(3)	Fine: First violation: \$200 Second violation: \$300 Third violation: \$500 In addition to the penalty payable to the Commission, the ALJ [may] <u>must</u> order the Owner to pay restitution to the Driver, equal to the excess amount that was charged to the Driver.	Appearance REQUIRED
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Section 16. Paragraph (1) of subdivision (h) of section 58-21 of Title 35 of the Rules of the City of New York is amended to read as follows:

- (1) Every Taxicab operating lease (including any amendments), must be in writing, and must be signed by the Owner (or a person authorized to act on behalf of the Owner), and by the leasing Driver or Drivers. Electronic signatures are permissible for electronic leases.

Section 17. Paragraph (2) of subdivision (i) of section 58-21 of Title 35 of the Rules of the City of New York is amended to read as follows:

- (2) *Costs covered by the lease.* The lease must state the total lease amount, and must itemize that total cost, including:
 - (i) The amount of the lease that applies to the medallion and the amount, if any, that applies to the vehicle

- (ii) The amounts, if any, of the security deposit
- (iii) The gasoline surcharge if there is one
- (iv) For leases under paragraph 58-21(c)(4) of these Rules, the vehicle sales price and an itemized total of all other fees and costs to be paid before title to the vehicle will be passed to the Driver
- (v) Any other costs that the Driver will be charged

Section 18. The penalty box of paragraph (6) of subdivision (i) of section 58-21 of Title 35 of the Rules of the City of New York, requiring that each lease include information regarding deposits, is amended to read as follows:

§58-21(i)	Fine: First violation \$500 Second and subsequent violations: \$1000 and/or suspension of the Medallion for up to thirty days. In addition to the penalty payable to the Commission, the administrative law judge [may] <u>must</u> order the owner to pay restitution to the driver, equal to the excess or non-authorized charge that was charged to the driver.	Appearance REQUIRED
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Section 19. Title 35 of the Rules of the City of New York is amended by adding a new section 59A-21, to read as follows:

§59A-21 Leasing a For-Hire Vehicle

- (a) A For-Hire Vehicle Owner may lease a Vehicle to a Driver, or otherwise make a Vehicle available to a Driver for use in exchange for compensation, for any period of time if the Owner complies with the provisions of this section.
 - (1) Written records required under this section must be provided to the Driver who is leasing or otherwise obtaining the use of the Vehicle and must be maintained in hard copy or electronically.
- (b) Lease Must Be in Writing.
 - (1) All leases, including any amendments, must be in writing and signed by the lessor and leasing Driver. Electronic signatures are permissible for electronic leases.
 - (2) A copy of the fully executed lease must be provided to the leasing Driver upon lease execution and upon the Driver’s request.

§59A-21(b)(1-2)	Fine: \$500 per missing lease	Appearance NOT REQUIRED
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- (3) Terms. The lease must provide:

- (i) The beginning date and time and ending date and time of the lease.
 - (ii) All costs and possible fees that may be charged by the lessor.
 - (A) For each cost and fee that will be charged, the lease must provide in clear and unambiguous language an explanation of the cost or fee.
 - (B) For each cost and fee that may be charged, the lease must provide in clear and unambiguous language an explanation of the conditions that will result in the imposition of such cost or fee.
 - (C) If a cancellation fee is included in the lease, the lease must specify the minimum prior notice that must be provided by Drivers to avoid the cancellation fee.
 - (D) The lease must specify if the Driver will be responsible for physical damage to the vehicle. However, if the lessor Owner receives compensation for damages to the Vehicle incurred from an entity other than the Driver, any amount previously paid by the Driver as compensation for damages must be refunded to the Driver.
 - (E) If the lease includes the conditional purchase of the Vehicle, the lease must provide the Vehicle sales price and an itemized total of all other fees and costs to be paid before title to the Vehicle will be passed to the Driver.
 - (F) If the lessor permits subleasing, all restrictions on subleases must be specified in the lease. These restrictions must include, at a minimum, that only Drivers with a Valid TLC License may sublease the Vehicle.
 - (G) If a security deposit is included in the lease, the terms and costs of the security deposit must be specified in the lease, including all costs that may be reimbursed from the security deposit. The lease must provide the number of days after termination of the lease, not to exceed 30 days, when the lessor will return the security deposit.
- (4) Overcharges. Every lease must contain clearly legible notice that overcharging a Driver is prohibited by the Commission's Rules, and that complaints of overcharges may be made to the Commission or by calling 311.

(5) RESERVED (limitations on costs and fees related to the lease of a For-Hire Vehicle)

§59A-21(b)(3-5)	Fine: First violation: \$500; Second and subsequent violations: \$1,000 and/or suspension for up to 30 days. In addition to the penalty payable to the Commission, the Hearing Officer must order the lessor to pay restitution to the Driver, equal to the amount charged to the Driver in violation of this rule.	<u>Appearance REQUIRED</u>
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(c) Fees Charged to Drivers.

- (1) A lessor may require payment of only those costs and fees provided in the lease. Requiring payment of costs and fees not provided in the lease is an overcharge.
- (2) A lessor cannot charge, request or accept a tip.
- (3) A lessor cannot require payment of a summons not written to the Driver, except the following summonses issued to the Vehicle Owner:
 - (i) Any parking tickets or red light violations issued during the lease if the Driver was provided an opportunity to dispute the ticket; and
 - (ii) Fines for violation of Rule 59B-26(a), provided that such fine was assessed because of the conduct of the Driver, and provided further the lessor is able to show that the Driver had notice of the inspection date, and provided further that the lease clearly states that inspection of the Vehicle as required by Rule 59B-26(a) is the responsibility of the Driver.

§59A-21(c)(1-3)	Fine: First violation: \$500; Second and subsequent violations: \$1,000 and/or suspension for up to 30 days. In addition to the penalty payable to the Commission, the Hearing Officer must order the lessor to pay restitution to the Driver, equal to the amount charged to the Driver in violation of this rule.	<u>Appearance REQUIRED</u>
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- (4) Vehicle Availability. The lease payment must be pro-rated if the Vehicle is unavailable for use during any part of the term of the lease for any reason that is not the lessor's responsibility.

§59A-21(c)(4)	Fine: First violation: \$500; Second and subsequent violations: \$1,000 and/or suspension for up to 30 days. In addition to the penalty payable to the Commission, the Hearing Officer must order the lessor to pay restitution to the Driver, equal to the amount charged to the Driver in violation of this rule.	<u>Appearance REQUIRED</u>
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(d) Driver Earnings.

(1) Driver earnings received by the lessor must be remitted to the Driver. The lessor may only deduct costs and fees from the Driver’s earnings if those costs and fees are specified in the lease as required in subdivision (b) of this section and the lease further provides that such costs and fees will be withheld from the Driver’s earnings.

<u>§59A-21(d)(1)</u>	<u>Fine: First violation: \$200</u> <u>Second violation: \$300</u> <u>Third violation: \$500</u> <u>In addition to the penalty payable to the Commission, the Hearing Officer must order the lessor to pay restitution to the Driver, equal to the amount owed to the Driver.</u>	<u>Appearance REQUIRED</u>
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(2) Drivers must be paid earnings within one week of a trip’s completion.

<u>§59A-21(d)(2)</u>	<u>Fine: \$100</u> <u>In addition to the penalty payable to the Commission, the Hearing Officer must order the lessor to pay restitution to the Driver, equal to the cost to the Driver.</u>	<u>Appearance NOT REQUIRED</u>
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(e) Written Receipt. For every financial transaction completed under the lease or these Rules, the lessor must give a written receipt to the Driver.

(1) The receipt must include the name of the Driver and the Vehicle license number.

(2) The receipt must clearly state the following information with respect to the payment or deduction:

- (i) The date;
- (ii) The name of the recipient;
- (iii) The amount and calculations showing how the amount was determined;
- (iv) The purpose of the payment or deduction;
- (v) The number of the section of this chapter or provision of the lease that authorizes the payment or deduction; and
- (vi) For leases including the conditional purchase of the Vehicle, an accounting of the portion of each payment made under the lease that is devoted to the conditional purchase of the Vehicle, the cumulative amount paid towards the conditional purchase of the Vehicle, and the number of payments remaining.

<u>§59A-21(e)</u>	<u>Fine: \$200 per missing receipt</u>	<u>Appearance REQUIRED</u>
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(f) Records Maintenance. A lessor must maintain for a period of three years from the date a lease expires or is cancelled:

- (1) A copy of the executed lease and any lease amendments;
- (2) Records of all itemized earnings paid to Drivers;
- (3) Records of all itemized payments received from Drivers;
- (4) Records of all itemized security deposit withholdings; and
- (5) Records of all Drivers subleasing the Vehicle, including the dates and times of the sublease, the subleasing Drivers' names, DMV license number and TLC Driver License number.

§59A-21(f)	Fine: \$100 for each missing item	Appearance REQUIRED
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(g) Collective Bargaining Exception. The provisions of this section do not apply to lessors and Drivers whose business relationship is governed by the terms of a collective bargaining agreement.

Section 20. Subdivisions (b) through (t) of section 59B-03 of Title 35 of the Rules of the City of New York are relettered subdivisions (c) through (u), the previous subdivision (u) is relettered subdivision (x), and new subdivisions (b), (v), and (w) are added, to read as follows:

- (b) Base Agreement is any agreement or terms or conditions a Driver or Vehicle owner must accept or agree to in order to receive a dispatch from the For-Hire Base, any costs or fees the Driver or Vehicle owner must pay to a For-Hire Base, or any schedules or formulas used to calculate Driver or Vehicle owner earnings.
- (v) Shared Ride Bonus refers to the dollar amount, set by the Commission, a Base subject to the minimum driver payment requirements of Section 59B-24(a) must pay a Driver for each separate pick up on a trip where a Passenger shares the Vehicle for part or all of the trip with a Passenger from a separately dispatched call. The Commission shall determine the Shared Ride Bonus dollar amount based on an analysis of Drivers' income and expenses for shared rides, average Vehicle occupancy, and any other factor the Commission determines is relevant for the analysis. The Commission will assess, and post on its website, the Shared Ride Bonus every six (6) months.
- (w) Utilization Rate refers to the percentage of time that Drivers who have made themselves available to accept dispatches from a Base spend transporting passengers on trips dispatched by the Base. A Base's Utilization Rate is calculated by dividing the total amount of time those Drivers spend transporting passengers on trips dispatched by the Base by the total amount of time Drivers are available to accept dispatches from the Base.

Section 21. Subdivision (n) of section 59B-13 of Title 35 of the Rules of the City of New York is amended to read as follows:

(n) *Retaliation.*

- (1) A For-Hire Base must not retaliate against any Driver or Vehicle owner for making a good faith complaint against any [Owner] Base.
- (2) Retaliation will be broadly construed, and will include imposing any adverse condition or consequence on the Driver or Vehicle owner or withholding or withdrawing any beneficial condition or consequence from the Driver or Vehicle owner.

§59B-13(n)	Fine: \$1,000 plus restitution to the driver <u>or vehicle owner</u> for losses for the first violation and a fine of \$10,000 plus restitution to the driver <u>or vehicle owner</u> for the second violation within five years.	Appearance NOT REQUIRED
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Section 22. Section 59B-18 of Title 35 of the Rules of the City of New York is amended by adding new subdivisions (f) and (g), to read as follows:

(f) *Base Agreements.*

- (1) Agreements Must Include All Terms. Any terms or conditions a Driver or Vehicle owner must accept or agree to in order to receive a dispatch from a For-Hire Base, any terms or conditions a Driver or Vehicle owner must accept or agree to in order to receive payment from a For-Hire Base or the entity designated by the For-Hire Base to process and disburse payments to Drivers and Vehicle owners, any costs a Driver or a Vehicle owner must pay a For-Hire Base, and any formulas used by a Base to calculate Driver or Vehicle owner earnings must be included in a Base Agreement that complies with the provisions of this subdivision.

- (a) Written records required under this subdivision may be maintained in hard copy or electronically.

§59B-18(f)(1)	Fine: First violation: \$500; Second and subsequent violations: \$1,000 and/or suspension for up to 30 days. <u>In addition to the penalty payable to the Commission, the Hearing Officer must order the Base to pay restitution to the Driver or Vehicle owner, equal to the amount charged to the Driver or Vehicle owner in violation of this rule.</u>	Appearance REQUIRED
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(2) *Base Agreement Must be in Writing.*

- (i) All Base Agreements, including any amendments, must be in writing and signed by the Base and the Driver or Vehicle owner. Electronic signatures are permissible for electronic Base Agreements.

- (ii) A copy of the fully executed Base Agreement must be provided to the Driver and/or Vehicle owner.
- (iii) A Base Owner must ensure that all Base Agreements are maintained in accordance with paragraph (6) of this subdivision and made available for inspection by Commission representatives during regular business hours.

<u>§59B-18(f)(2)(i-ii)</u>	Fine: \$500	<u>Appearance NOT REQUIRED</u>
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- (iii) Terms. The Base Agreement must provide:
 - (A) All costs and fees that may be charged by the Base.
 - (1) For each cost or fee that will be charged, the Base Agreement must provide in clear and unambiguous language an explanation of the cost or fee.
 - (2) For each cost or fee that may be charged, the Base Agreement must provide in clear and unambiguous language an explanation of the conditions that will result in the imposition of such cost or fee.
 - (B) An explanation of how the Driver’s earnings will be calculated, including but not limited to a percentage of fares paid by passengers that will be forwarded to the Driver or a formula used by the Base.
 - (C) All requirements the Driver or Vehicle must meet in order to receive a dispatch.
- (iv) Overcharges. Every Base Agreement must contain a clearly legible notice that overcharging a Driver or Vehicle owner is prohibited by the Commission’s Rules, and that complaints of overcharges may be made in writing to the Commission or by telephone to 311.
- (v) Plain Language. Base Agreements must be written in clear and unambiguous language.

<u>§59B-18(f)(2)(iii-v)</u>	Fine: First violation: \$500; Second and subsequent violations: \$1,000 and/or suspension for up to 30 days. In addition to the penalty payable to the Commission, the <u>Hearing Officer must order the Base to pay restitution to the Driver, equal to the amount charged to the Driver in violation of this rule.</u>	<u>Appearance REQUIRED</u>
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(3) Driver Payments.

- (i) A Base may require payment of only those costs and fees specified in the Base Agreement. Requiring payment of costs and fees not specified in the Base Agreement is an overcharge.
- (ii) A Base cannot charge, request or accept a tip.
- (iii) A Base cannot require payment by a Driver of a summons not written to the Driver.

<u>§59B-18(f)(3)</u>	<u>Fine: First violation: \$500; Second and subsequent violations: \$1,000 and/or suspension for up to 30 days. In addition to the penalty payable to the Commission, the Hearing Officer must order the Base to pay restitution to the Driver, equal to the amount charged to the Driver in violation of this rule.</u>	<u>Appearance REQUIRED</u>
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(4) Driver Earnings.

- (i) A Base must remit all earnings to the Driver or Vehicle owner. A Base may only deduct costs and fees from the earnings if those costs and fees are specified in the Base Agreement as required in paragraph (2) of this subdivision and the Base Agreement further provides that such costs and fees will be withheld from the earnings.

<u>§59B-18(f)(4)(i)</u>	<u>Fine: First violation: \$200 Second violation: \$300 Third violation: \$500 In addition to the penalty payable to the Commission, the Hearing Officer must order the lessor to pay restitution to the Driver, equal to the amount owed to the Driver.</u>	<u>Appearance REQUIRED</u>
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- (ii) Drivers must be paid earnings for every trip made by the Driver within one week of the trip's completion.

<u>§59B-18(f)(4)(ii)</u>	<u>Fine: \$100 In addition to the penalty payable to the Commission, the Hearing Officer must order the Base to pay restitution to the Driver, equal to the difference between what the Base paid the Driver and what the Driver actually earned.</u>	<u>Appearance NOT REQUIRED</u>
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(5) Written Receipts. For every financial transaction under the Base Agreement or these Rules, the Base must give a written receipt to the Driver or Vehicle owner.

- (i) The receipt must include, as applicable, the name of the Driver and the Vehicle license number subject to the Base Agreement.
- (ii) The receipt must clearly state the following information with respect to the payment or deduction:

- (A) The date;
 - (B) The name of the recipient;
 - (C) The amount;
 - (D) The purpose of the payment or deduction;
 - (E) The number of the section of this chapter or provision of the Base Agreement that authorizes the payment or deduction; and
 - (F) If the Base is subject to the minimum driver payment requirements of Section 59B-24(a), the applicable minimum per minute and per mile rates for the time period covered by the receipt.
- (iii) For Driver and Vehicle owner earnings, in addition to the items specified in subparagraph (ii) of this paragraph, the receipt must also include any calculation used to determine the earnings, including the per-trip minutes and miles for which the Driver is being paid and the number of shared rides subject to the Shared Ride Bonus provided in Section 59B-24(a)(3), if applicable. Such calculation must conform to the applicable policy, formula or schedule provided in the Base Agreement.

<u>§59B-18(f)(5)</u>	<u>Fine: \$200 per missing receipt</u>	<u>Appearance REQUIRED</u>
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- (6) Records Maintenance. A Base must maintain for a period of three years from the date a Base Agreement expires or is cancelled or from the last trip dispatched to the Driver or Vehicle, whichever is later:
- (i) A copy of the executed Base Agreement and any amendments;
 - (ii) Records of all itemized earnings paid to Drivers and Vehicle owners; and
 - (iii) Records of all itemized payments received from Drivers and Vehicle owners.

<u>§59B-18(f)(6)</u>	<u>Fine: \$100 for each missing item</u>	<u>Appearance REQUIRED</u>
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- (7) Form 1099-K. If a Base subject to Section 59B-24(a) is required to provide a Driver with a Form 1099-K, the Base must also provide the Driver:
- (i) The total mileage for trips covered by the Form 1099-K, and
 - (ii) An itemization of the items deducted from the gross amount reported on the Form 1099-K

(8) Collective Bargaining Exception. The provisions of this subdivision do not apply to Bases and Drivers whose business relationship is governed by the terms of a collective bargaining agreement.

(g) Vehicle Leases. Any Vehicle lease agreement entered into between a Base and Driver must comply with all provisions of §59A-21. Failure to comply with any provision of §59A-21 shall subject the Base to the penalties contained therein.

§59B-18(g)	Fine: Penalties as set forth in §59A-21.	Appearance REQUIRED
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Section 23. Section 59B-19 of Title 35 of the Rules of the City of New York is amended by adding a new subdivision (d), to read as follows:

(d) Special Requirements for Bases Subject to Minimum Driver Payment Requirements

(1) In addition to collecting and transmitting records pursuant to subdivision (a) of this section, a Base Owner subject to Section 59B-24(a) of these rules must collect and transmit to the Commission, in a format, layout, procedure, and frequency prescribed by the Commission, the following information for each time a Driver is available to accept dispatches from the Base:

- (i) The Driver's TLC Driver License number
- (ii) The date and time at which the Driver became available to accept dispatches from the Base
- (iii) The date and time at which the Driver became unavailable to accept dispatches from the Base
- (iv) The total Driver earnings paid to the Driver for the period in which the Driver was available to accept dispatches from the Base

(2) In addition to collecting and transmitting records pursuant to subdivision (a) of this section, a Base Owner subject to Section 59B-24(a) of these rules must collect and transmit to the Commission, in a format, layout, procedure, and frequency prescribed by the Commission, the following additional information with respect to all dispatched calls:

- (i) The itemized fare for the trip charged to the passenger (fare, tolls, taxes, gratuity, commission rate, deductions and surcharges)
- (ii) The total number of passengers picked up and dropped off during each dispatched call referenced in 59B-19(a)(1)
- (iii) The total trip mileage for each dispatched call referenced in 59B-19(a)(1)
- (iv) The date and time such trip request was made by a passenger
- (v) The amount of time each trip took, starting with the time the passenger entered the vehicle and ending when the passenger exited the vehicle
- (vi) The amount of time spent by each vehicle between trips though not on a way to a passenger
- (vii) The total Driver earnings paid to the Driver for each trip dispatched to the Driver by the Base

Section 24. Title 35 of the Rules of the City of New York is amended by adding a new section 59B-24, to read as follows:

§59B-24 Minimum Driver Payment Requirements

- (a) A Base that, on average, dispatches ten thousand or more trips per day, or a Base that is part of a group of Bases operating under the same public-facing trade, business or operating name that collectively dispatches more than ten thousand trips per day, must pay Drivers, at a minimum, the following amounts for each trip dispatched by the Base:
- (1) Per Mile Rate. Beginning January 1, 2019, for each mile a Driver transports a Passenger on a trip dispatched by the Base, the Base must pay the Driver no less than \$0.580 per mile for a trip dispatched to a non-Accessible Vehicle and \$0.803 for a trip dispatched to an Accessible Vehicle, divided by the Base’s Utilization Rate;
 - (i) RESERVED – [expense formulation for luxury vehicles]
 - (2) Per Minute Rate. Beginning January 1, 2019, for each minute a Driver transports a Passenger on a trip dispatched by the Base, the Base must pay the Driver no less than \$0.287 per minute, divided by the Base’s Utilization Rate, and
 - (3) Shared Ride Bonus. For each separate pick up on a trip where a Passenger shares the Vehicle for part or all of the trip with a Passenger from a separately dispatched call, the Base must pay the Driver the Shared Ride Bonus, in addition to the per mile and per minute rates.
 - (4) Consumer Price Index Adjustments. Beginning January 1, 2020, and continuing each calendar year thereafter, the dollar amounts in the per mile rates and per minute rates contained in this subdivision will be adjusted using the 12-month Percentage Change in the Consumer Price Index for Urban Wage Earners and Clerical Workers for the NY-NJ-PA metro area. The Consumer Price Index adjusted per mile and per minute rates will be posted on the Commission’s website.

§59B-24(a)	<u>Fine: \$500 per instance of under payment. In addition to the penalty payable to the Commission, the Hearing Officer must order the Base to pay restitution to the Driver, equal to the amount not paid to the Driver in violation of this rule.</u>	<u>Appearance REQUIRED</u>
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- (b) Utilization Rate: The Commission will assess, and post on its website, the Utilization Rate for each Base subject to this section every six months. A group of Bases operating under the same public-facing trade, business, or operating name will be assessed one

Utilization Rate, applicable to each individual Base in the group, calculated using the collective Driver availability and passenger trip times for all Bases in the group.

- (c) Daily Average Trip Volumes: The daily average trip volume for each Base and each group of Bases operating under the same public-facing trade, business or operating name will be assessed every six months. Bases that average over ten thousand trips per day over the most recent assessment period, and Bases that are parts of a group of Bases operating under the same public-facing trade, business or operating name that collectively average over ten thousand trips per day over the most recent assessment period, will be subject to the requirements of subdivision (a) of this section until such time as the next assessment occurs.

Section 25. Subdivision (c) of section 67-09 of Title 35 of the Rules of the City of New York is amended by adding a new paragraph (5), to read as follows:

(c) Other Technical Requirements

(5) The Taximeter must, at the end of the trip, display the total sum of the fare and any extras, taxes, or surcharges assessed on the trip.

Section 26. Subdivision (l) of section 82-16 of Title 35 of the Rules of the City of New York is amended to read as follows:

(l) *Retaliation.*

- (1) [A] An Owner of a Street Hail Livery [Owner] License must not retaliate against any Driver or Vehicle owner for making a good faith complaint against any Street Hail Livery License Owner.
- (2) Retaliation will be broadly construed, and will include imposing any adverse condition or consequence on the Driver or Vehicle owner or withholding or withdrawing any beneficial condition or consequence from the Driver or Vehicle owner.

§82-16(l)	Fine: \$1,000 plus restitution to the driver <u>or vehicle owner</u> for losses for the first violation and a fine of \$10,000 plus restitution to the driver <u>or vehicle owner</u> for the second violation within five years.	Appearance NOT REQUIRED
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Section 27. Subdivision (d) of section 78-21 of Title 35 of the Rules of the City of New York is amended to read as follows:

(d) *Use Restrictions.* An E-Hail Application must conform to the following use restrictions or other specifications:

- (1) [The E-Hail Application must not operate:
(i) At John F. Kennedy International Airport; and

- (ii) At LaGuardia Airport;
- (2) The E-Hail Application must not transmit requests for transportation or Hails to any Driver who is not validly licensed to drive a Taxicab or Street Hail Livery or who is operating a Vehicle that does not have a Valid Taxicab License, per the listings on TLC’s Current Licensees webpage.

§78-21(d)(1) [and (2)]	Penalty: \$400 fine and/or suspension up to 30 days	Appearance REQUIRED
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- ([3]2) The E-Hail Application must be available to a Driver *ONLY* when the Vehicle is standing or stopped, except that an E-Hail App can permit a Driver to accept an E-Hail request with a single touch using pre-programmed buttons or using voice activation while the vehicle is in motion. All other use of the E-Hail Application must be velocity gated by the E-Hail App Provider to prevent its use while the vehicle is in motion.
- ([4]3) The E-Hail Application must NOT disclose to a Driver any information about a potential Passenger except the Passenger’s pickup location, except that a Passenger’s trip identification number or E-Hail App user name may be transmitted to the Driver after the Driver has accepted the Passenger’s E-Hail request.
- ([5]4) A Driver must have to affirmatively opt in to use the E-Hail Application and must be able to opt out of receiving E-Hail requests from Passengers while on duty.

Section 28. Paragraph (4) of subdivision (a) of section 80-19 of Title 35 of the Rules of the City of New York is amended to read as follows:

- (4) A Driver of a Taxicab must not solicit or cruise for the purpose of soliciting Passengers [or accept Passengers for transportation with the use of an E-Hail Application]:
 - (i) At Kennedy, La Guardia or Newark Airports
 - (ii) Within 100 feet of any authorized Taxi Stand
 - (iii) Within the private streets of Lincoln Center
 - (iv) In any area of the City of New York where Taxicab cruising is prohibited

§80-19(a)(4)	Fine: \$100 if plead guilty before a hearing; \$150 if found guilty following a hearing.	Appearance NOT REQUIRED
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**NEW YORK CITY LAW DEPARTMENT
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100 CHURCH STREET
NEW YORK, NY 10007
212-356-4028**

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

RULE TITLE: Driver Earnings and Vehicle Lease Transparency

REFERENCE NUMBER: 2018 RG 091

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: August 20, 2018

**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: Driver Earnings and Vehicle Lease Transparency

REFERENCE NUMBER: TLC-105

RULEMAKING AGENCY: Taxi and Limousine Commission

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) The Taxi and Limousine Commission believes that the economies of scale achieved by the large companies will enable them to make the financial, operational or other adjustments necessary to accommodate the proposed driver earnings policy; and
- (iii) Cure periods are inappropriate for these rules because a cure period is not practicable under the circumstances.

/s/ Francisco X. Navarro
Mayor's Office of Operations

August 20, 2018
Date