

## 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 related to Medallion Taxicab Service and Street Hail Livery Service. The proposed rules will make certain types of Taxicab leases more affordable for lessees, protect Drivers from overcharges under these leases, remove the optional gasoline surcharge for Medallion Owners or Agent lessors, allow Taxicab lessors to make non-cash payments to Drivers and provide for an evening rush hour surcharge for Flat Rate trips between Manhattan and Kennedy airport.

**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 July 16, 2015. The hearing will be in the hearing room at 33 Beaver Street – 19<sup>th</sup> Floor, New York, NY 10004.

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

- **Mail.** You can mail 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 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 comments?** Yes, you must submit written comments by July 16, 2015.

**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 July 10, 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 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 Proposed Rules**

The Commission held a biennial review of the current fare and lease cap structure on April 2, 2015, as required under §52-04(b)(3-4) of the TLC Rules. The proposed rules are based on testimony and written comments received at the hearing, the review and analysis of Taxicab and Street Hail Livery (“SHL”) operations by TLC staff, and the solicitation of additional feedback from Drivers, taxi garage owners, and leasing Agents.

The proposed amendments to the Medallion Taxicab Service rules:

- Allow Medallion Owners and Agents who offer an “all-in” lease, which includes both the lease of the Medallion and the conditional purchase of a vehicle, to extend lease terms beyond the current 156-week maximum and enable lessees to make smaller weekly payments;
- Cap the total amount that can be charged for the conditional purchase of the vehicle;
- Require lessors to produce and maintain more detailed receipts for payments towards the vehicle purchase;
- Remove the optional gasoline surcharge for Medallion Owners or Agent lessors;
- Permit non-cash payments from lessors to Drivers, provided that any alternative payment method is offered at no additional cost to the Driver; and
- Provide for an evening rush hour surcharge for Flat Rate trips between John F. Kennedy Airport (“JFK”) and Manhattan.

The proposed amendment to the SHL Service rules provides for an evening rush hour surcharge for Flat Rate trips from Manhattan to JFK.

### **Lease Caps for All-In Leases**

The proposed changes amend the rules for long-term leases to allow Medallion Owners and Agents to extend lease terms for leases that include both the lease of a Medallion as well as the conditional purchase of a vehicle (commonly referred to as the "all-in lease"). Currently, Medallion Owners and Agents may charge a weekly amount, which is capped by TLC rule, for up to 156 weeks for an all-in lease. This weekly cap includes both the Medallion portion of the lease as well as payments towards the conditional purchase of the vehicle. Once all payments are made at the end of the current 156-week term, the vehicle title can pass to the Driver if the Driver so requests. Medallion Owners, Agents, and Medallion Drivers have expressed interest in extending payments over longer periods of time to reduce weekly payments under the all-in model.

Under existing rules, lessors cannot enter into conditional purchase agreements with Drivers that require more than 156 weekly payments. Accordingly, lessors are unable to offer lower weekly payments over a longer period of time. The proposed rules permit lease terms to be extended beyond the current 156-week maximum and enable lessees to make smaller weekly payments. The proposed rules also establish a cap on the total amount that may be charged for the vehicle portion of the all-in lease. The current all-in lease cap, after the removal of the Medallion portion of the lease, permits up to \$42,900 in total payments over the course of 156 weeks for the purchase of the vehicle. Under the proposed rule, no Owner or Agent lessor would be allowed to

charge more than the total amount of \$42,900 for the vehicle portion of an all-in lease, irrespective of the term of the all-in agreement.

To protect drivers from lease overcharges, TLC proposes an additional itemized weekly cap of \$275 for the vehicle portion of the lease. TLC also proposes amending rules on the receipts lessors must give Drivers for weekly payments and maintain in their records for Commission inspection. Under this proposed change, lessors must provide weekly to Drivers the following information:

- Receipt of that week's payment, itemized by the Medallion portion of the lease and the conditional vehicle purchase portion of the lease;
- The cumulative amount of payments toward the conditional purchase of the vehicle;
- The remaining balance on the conditional purchase of the vehicle; and
- The estimated number of remaining payments required for the conditional purchase of the vehicle under the current contract terms.

If lessors fail to include this information, they will be fined \$200. To ensure that lessors retain these documents, which TLC must inspect to investigate allegations of overcharges, lessors will be fined \$100 penalty for each missing document.

### **Gas Surcharge**

In 2012, TLC adopted rules providing for an optional gasoline surcharge that could be offered to Drivers leasing Taxicabs on a daily or weekly basis. The proposed rules remove this optional surcharge after outreach conducted by TLC staff indicated that it is not utilized by Taxicab lessors.

### **Non-Cash Payment Methods for Owner and Agent Lessors**

Medallion Owner and Agent lessors are required to remit to Drivers all passenger fares paid by credit card. TLC rules currently require that these payments be made in cash. Both Drivers and lessors have requested that these payments be permitted in forms other than cash. Given security concerns associated with requiring lessors to have large sums of cash on hand as well as similar concerns with Drivers leaving garages after having been paid out in cash, the proposed Rules would permit other forms of payment, such as payment by debit card, bank transfer, or check, so long as the other forms of payment are provided at no cost to Drivers. Cashless payment can help streamline operations, allowing Fleets and Agents to reduce shift change times and enabling the exchange of vehicles between Drivers at off-site locations, both of which can help to expand Taxicab service to passengers at rush hour and provide additional fare opportunities to Drivers. Additionally, Drivers have responded positively to cashless payment provided in other sectors of the City's for-hire industry. To ensure payment is made at no cost to Drivers, the proposed rule would add to the existing fine a penalty for an Owner or Agent who violates the rule to pay restitution to the Driver in the amount of any additional cost incurred by a Driver for payment. The proposed rules would also permit Drivers who lease Taxicabs on a weekly basis to choose to be paid out on a weekly basis, which conforms to current industry practice.

### **Rush Hour Surcharge for Flat Rate Taxi Trips between Manhattan and Kennedy Airport**

In 2004, the Commission established an evening rush hour surcharge for weekday trips between 4:00 PM and 8:00 PM. The intent of the surcharge was to encourage Drivers to provide taxi service when supply is insufficient to meet passenger demand. However, the current evening rush hour surcharge does not apply to Flat Rate trips between Manhattan and JFK. Because of the amount of time it takes to make the round trip to JFK, including time spent waiting in the central hold lot, Drivers lose out on money they could have made via the surcharge on metered fares. These losses are amplified by the additional travel time to JFK during rush hours as compared to non-rush hours (56 minutes vs. 41 minutes). Including waiting time at JFK between fares, the average amount of time spent traveling to JFK and returning back to Manhattan during the evening rush hours totals 3 hours.

To adequately compensate Drivers for the additional time it takes to complete trips between Manhattan and JFK during the evening rush hour, TLC proposes an evening surcharge for these trips. TLC staff calculated that Drivers can complete 9 regular metered fares, netting an additional \$9 in rush hour surcharges, during the time it takes to complete a trip to and from JFK during the evening rush hours. The proposed rules provide a surcharge of \$4.50 per trip on all Flat Rate trips between Manhattan and JFK on weekdays between 4:00 PM and 8:00 PM.

In 2014, Taxis completed on average almost 2,000 trips between Manhattan and JFK each weekday between the evening rush hours of 4:00 PM and 8:00 PM. A rush hour surcharge on the JFK Flat Rate will adequately compensate drivers as they meet this high demand for transportation to JFK.

### **Rush Hour Surcharge for Flat Rate SHL Trips from Manhattan to Kennedy Airport**

The SHL Service Rules provide rates of fare for Hail Trips that mirror those in the Medallion Service Rules. Accordingly, the SHL rules provide for an evening surcharge for all metered trips on weekdays between 4:00 PM and 8:00 PM. Additionally, the SHL rules provide a Flat Rate for trips from the Manhattan Hail Zone to JFK. A review of LPEP records reveal a similar increase in the amount of time it takes a SHL Driver to complete a Flat Rate trip to JFK during rush hours as compared to non-rush hours. To adequately compensate SHL drivers as they complete Flat Rate trips from Manhattan to JFK during the evening rush hours, the proposed rules provide a surcharge of \$4.50 per trip on weekdays between 4:00 PM and 8:00 PM.

The Commission's authority for these rules is found in section 2303 of the New York City Charter and sections 19-503 and 19-511 of the New York City Administrative Code.

New material is underlined.

[Deleted material is in brackets.]

Section 1. Subparagraph (v) of paragraph (3) of subdivision (c) of section 58-21 of Title 35 of the Rules of the City of New York, relating to the availability of an optional gasoline surcharge, is repealed.

Section 2. Subparagraphs (ii) and (iii) of paragraph (4) of subdivision (c) of section 58-21 of Title 35 of the Rules of the City of New York are amended to read as follows:

- (ii) The Standard Lease Cap under this section for a Taxicab Medallion and vehicle is
  - A. [\$1,269] 994 weekly for the lease of the Medallion, if the vehicle complies with the requirements of Section 67-05 or other applicable provisions of these Rules and meets the requirements of Section 19-533 of the Administrative Code, plus \$275 weekly for the portion of the lease covering the conditional purchase of the vehicle; or
  - B. [\$1,227] 952 weekly for the lease of the Medallion, if the vehicle complies with the requirements of Sections 67-05.1 or 67-05.2 of these Rules, plus \$275 weekly for the portion of the lease covering the conditional purchase of the vehicle.
  - C. This Standard Lease Cap [can be charged for a lease related to any one vehicle for up to 156 weeks, however it] cannot be charged at any time after title to the vehicle passes (or could have passed) to the lessee such that total payments by the lessee for the vehicle shall not exceed \$42,900.
- (iii) Title to the leased vehicle must pass to one or more of the lessees, if the lessees request, after [156 weeks, or after] all vehicle financing costs have been paid [, whichever is sooner]. The conditional seller is not required to transfer title if the lessees have failed to pay all payments due for the vehicle purchase and lease until all such payments have been made.

Section 3. Subparagraph (vi) of paragraph (4) of subdivision (c) of section 58-21 of Title 35 of the Rules of the City of New York, relating to the availability of an optional gasoline surcharge, is repealed, and subparagraph (vii) is renumbered subparagraph (vi).

Section 4. Subparagraph (i) of paragraph (5) of subdivision (c) of section 58-21 of Title 35 of the Rules of the City of New York, relating to the availability of an optional gasoline surcharge, is repealed, and subparagraphs (ii) through (xii) are renumbered subparagraphs (i) through (xi).

Section 5. Paragraph (6) of subdivision (c) of section 58-21 of Title 35 of the Rules of the City of New York, providing for an optional gasoline surcharge, is repealed, and paragraph (7) is renumbered paragraph (6)

Section 6. Paragraphs (1), (2) and (3) of subdivision (f) of section 58-21 of Title 35 of the Rules of the City of New York are amended to read as follows:

(f) *Non-Cash Payments.*

- (1) For any lease of a Taxicab (vehicle and Medallion) under paragraph 58- 21(c)(1) or 58-21(c)(2), an Owner (or Owner's Agent) must pay a Driver [in cash], on a daily basis, the total amount of all non-cash payments, including E-Payments through TPEP (if any), made during the Driver's shift, less the \$.06 per trip driver health surcharge described in paragraph 58-21(f)(5) and, on and after January 1,

2015, the Taxicab Improvement Surcharge payable to the Taxicab Improvement Fund as set forth in Section 58-16[;]. Drivers leasing a Taxicab on a weekly basis under 58-21(c)(1)(i)E, 58-21(c)(1)(i)F, 58-21(c)(2)(i)E or 58-21(c)(2)(i)F may, at the Driver's discretion, be paid on a weekly basis. Payment to a Driver must be provided at no cost to the Driver.

- (2) For any lease not described in paragraph (1), an Owner (or Owner's Agent) must pay the Driver [in cash], on no less than a weekly basis, the total amount of all non-cash payments, including E-Payments through TPEP (if any), made during that period, less the \$.06 per trip driver health surcharge described in paragraph 58-21(f)(5) and, on and after January 1, 2015, the Taxicab Improvement Surcharge payable to the Taxicab Improvement Fund as set forth in Section 58-16. Payment to a Driver must be provided at no cost to the Driver.

§58-21(f)(1)& (2)	Fine: \$100 <u>In addition to the penalty payable to the Commission, the ALJ may order the Owner to pay restitution to the Driver, equal to the cost to the Driver.</u>	Appearance NOT Required
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- (3) An Owner (or Owner's Agent) must not withhold from the [cash] payments any credit card pass-along, fees or charges.

§58-21(f)(3)	Fine: First violation: \$200 Second violation: \$300 Third violation: \$500 <u>In addition to the penalty payable to the Commission, the ALJ may order the Owner to pay restitution to the Driver, equal to the excess amount that was charged to the Driver.</u>	Appearance Required
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Section 7. The penalty provision of subdivision (g) of section 58-21 of Title 35 of the Rules of the City of New York is amended, and a new subparagraph (vi) is added to paragraph (3) of such subdivision, to read as follows:

- (vi) For leases under paragraph 58-21(c)(4) of these Rules, the following additional information:
- A. The weekly amount received, itemized by the amount paid for the Taxicab Medallion portion of the lease and the amount paid for the conditional purchase of the vehicle;
  - B. The cumulative amount paid towards the conditional purchase of the vehicle;
  - C. The remaining amount to be paid for the conditional purchase of the vehicle; and

D. The remaining number of weekly payments for the conditional purchase of the vehicle based on the current contract terms.

§58-21(g)	Fine: \$[50 plus driver gets free shift.] <u>200</u>	
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Section 8. Subparagraph (iii) of paragraph 2 of subdivision (i) of section 58-21 of Title 35 of the Rules of the City of New York, relating to the availability of an optional gasoline surcharge, is repealed, and subparagraph (iv) is renumbered subparagraph (iii).

Section 9. Subdivision (c) of section 58-24 of Title 35 of the Rules of the City of New York is amended to read as follows:

(c) All Owners must maintain the following additional records for a period of three years:

- (1) Drivers' electronic and written trip records
- (2) Receipts and disbursements from the Taxicab operations
- (3) Payments to Drivers
- (4) Mileage record of each vehicle
- (5) Workers' compensation insurance coverage, if any
- (6) Liability insurance coverage
- (7) Leases entered into pursuant to 58-21(c)
- (8) Vehicle purchase agreements entered into pursuant to 58-21(c)(4)
- (9) Any other information required by the Commission

§58-21(c)(1)-(7)	Fine: \$[50] <u>100</u> for [violation of] each [subdivision hereof] <u>missing item</u> .	Appearance NOT Required
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Section 10. Paragraphs (1) and (2) of subdivision (b) of section 58-26 of Title 35 of the Rules of the City of New York are amended to read as follows:

(b) *Flat Rates [from] between Manhattan and Kennedy Airport.*

- (1) *Flat Fare Rate [to] between Manhattan and Kennedy Airport.* The fare for a trip between Kennedy Airport and Manhattan will be a Flat Rate of \$52, plus any tolls and applicable surcharges.
  - (i) [NO] A rush hour surcharge of \$4.50 will be added to this Flat Rate for all trips beginning on a weekday after 4:00 p.m. and before 8:00 p.m. This surcharge will not be applied on legal holidays.

- (ii) The MTA Tax must be charged in addition to the Flat Rate.
  - (iii) The Taximeter must reflect that this trip is a Flat Rate fare.
- (2) *Calculating Fare for Multiple Stops to Manhattan.* If passengers request multiple stops on a trip from Kennedy Airport to Manhattan, the fare will be determined as follows:
- (i) The first stop in Manhattan is paid as required by paragraph (1) of this subdivision [(a Flat Rate fare of \$52 plus tolls plus the MTA Tax)].
  - (ii) The Taximeter is then turned on as if for a new trip and a new fare is calculated as a regular metered trip.
  - (iii) The total metered fare (plus any surcharge) is paid at the last stop by the remaining passenger.
  - (iv) No fare is due at the time any other passengers are dropped off between the first and last passenger.
  - (v) Example: if three passengers request stops at 42nd St., 18th St. and 4th St.:
    - A. \$52.[5]00 plus the MTA tax and any applicable tolls or surcharges will be collected at 42nd St.
    - B. The Taximeter will be turned on at that point.
    - C. When the second passenger exits at 18th St., the Taximeter remains on and no money is paid to the Driver.
    - D. The passenger dropped off at 4th St. must pay the fare on the Taximeter.

Section 11. Paragraph (1) of subdivision (b) of section 82-26 of Title 35 of the Rules of the City of New York is amended to read as follows:

(b) *Flat Rates to Kennedy Airport.*

- (1) *Flat Fare Rate from Manhattan.* The fare for a Hail Trip to Kennedy Airport from a location in Manhattan which is in the Hail Zone will be a Flat Rate of \$52, plus any tolls and applicable surcharges.
  - (i) [NO] A rush hour surcharge of \$4.50 will be added to this Flat Rate for all trips beginning on a weekday after 4:00 p.m. and before 8:00 p.m. This surcharge will not be applied on legal holidays.

- (ii) The MTA Tax must be charged in addition to the Flat Rate.
- (iii) The Taximeter must reflect that this trip is a Flat Rate fare.

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 Lease Cap and Flat Trip Rate Rules**

**REFERENCE NUMBER: 2015 RG 062**

**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: May 22, 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 Lease Cap and Flat Trip Rate Rules**

**REFERENCE NUMBER: TLC-81**

**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

May 28, 2015  
Date