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 to require For-Hire Vehicle Bases to permit passengers to tip drivers using the same method of payment that passengers use to pay for the trip.

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 13, 2017. The hearing will be in the hearing room at 33 Beaver Street – 19th Floor, New York, NY 10004.

This location 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 – 22rd 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 July 13, 2017.

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 Friday, July 7, 2017.

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

On February 16, 2017, the New York City Taxi and Limousine Commission (“TLC”) received a Petition to Initiate Rule Making from the Independent Drivers Guild to establish rules governing tipping in the For-Hire Vehicle (“FHV”) industry. The Independent Drivers Guild is a nonprofit labor organization that represents For-Hire Vehicle Drivers that drive for some of the larger For-Hire Vehicle bases.

Under current rules, taxis must offer passengers the ability to tip drivers using cash or a credit card. However, no such rule exists for FHV bases. At an April 6, 2017 hearing on driver economics, and in over 2,000 e-mails TLC received in support of the Petition, the TLC heard from drivers that many bases require passengers to pay the fare using a credit card, but do not allow for tipping on a credit card. Passengers that book trips through such bases that do not have any cash on them are unable to tip their drivers if they wish to do so, leaving both passengers and drivers at a disadvantage.

The Petition specifically called on the TLC to initiate rulemaking to require FHV bases that allow passengers to book trips through smartphone applications to include an in-app gratuity option. These proposed rules incorporate the proposal put forward by the Petition, but are applicable to all bases, not just those that use smartphone applications, to ensure that all passengers can tip drivers seamlessly, regardless of whether they used an app or called a car service for a ride.

The proposed rules would require FHV bases to allow passengers to tip drivers using the same method of payment they use to pay for the fare. Specifically, if a company restricts fare payment to payment by credit card, then the company must permit tipping using a credit card. Companies which only accept cash, would only be required to permit tipping in cash.

Bases may continue to allow passengers to tip using other payment methods, but they must allow passengers to tip using the same payment method they use to pay for the fare. Allowing tipping using the same payment methods used for paying the fare will make it easier for passengers that want to tip to do so.

The proposed rules would also require bases to remit to drivers the entirety of all of their tips, regardless of the payment method used to tip the driver.

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

New material is underlined.
[Deleted material is in brackets.]
Section 1. Section 59B-23 of Title 35 of the Rules of the City of New York is amended to add a new subdivision (h) to read as follows:

(h)  *Tips and Gratuities.*  A Base Owner must provide a means to allow passengers to tip Drivers using the same method of payment that passengers use to pay for the fare. A Base Owner must remit to the Driver the entirety of anything designated as a tip or gratuity collected by the Base Owner from a customer on behalf of the Driver.

| §59B-23(h) | Fine: $500 | Appearance NOT REQUIRED |
CERTIFICATION PURSUANT TO

CHARTER §1043(d)

RULE TITLE: Payment of Tips by Credit Card in For-Hire Vehicles

REFERENCE NUMBER: 2017 RG 046

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 30, 2017
CERTIFICATION / ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)

RULE TITLE: Payment of Tips by Credit Card in For-Hire Vehicles

REFERENCE NUMBER: TLC-99

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) 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 a cure period is not practicable under the circumstances.

/s/ Francisco X. Navarro
May 30, 2017
Mayor’s Office of Operations Date