

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. The change would amend the TLC's Rules as approved by the Commission on April 19, 2012, regarding Street Hail Livery service.

When and where is the Hearing? The Commission will hold a public hearing on the proposed rule. The public hearing will take place at 10:00 a.m. on Thursday, June 21, 2012. The hearing will be in the Commission hearing room at 33 Beaver Street, New York, New York, on the 19th Floor.

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 10014.
- **Fax.** You can fax written comments to the Taxi and Limousine Commission, Office of Legal Affairs, at 212-676-1102.
- **Email.** You can email written comments to tlcrules@tlc.nyc.gov.
- **Website.** You can submit comments to the Taxi and Limousine Commission through the NYC rules Web site at www.nyc.gov/nycrules.
- **By Speaking at the Hearing.** Anyone who wants to comment on the proposed rule at the public hearing must sign up to speak. You can sign up before the hearing by calling 212-676-1135. You can also sign up in the hearing room before the hearing begins on June 21, 2012. You can speak for up to three minutes.

Is there a deadline to submit written comments? Yes, you must submit written comments by Monday, June 18, 2012.

Do you need assistance to participate in the Hearing? You must tell the Office of Legal Affairs if you need a reasonable accommodation of a disability at the Hearing. You must tell us if you need a sign language interpreter. You can tell us by mail at the address given above. You may also tell us by telephone at 212-676-1135. You must tell us by Thursday, June 14, 2012.

Can I review the comments made on the proposed rules? A few days after the hearing, a transcript of the hearing and copies of the written comments will be available to the public at the Office of Legal Affairs.

What authorizes the Commission to make this rule? Sections 1043 and 2303 of the City Charter and section 19-503 of the City Administrative Code, together with the provisions of state

legislative bills S5825 and A8496 signed into law on December 23, 2011 and the provisions of S6118-A and A8691-A signed into law on February 17, 2012, 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 Rule

On December 23, 2011 Governor Cuomo signed into law chapter 602 of the Laws of 2011, and on February 17, 2012, signed into law chapter 9 of the Laws of 2012, which amended the previous statute. This legislation allows New York City to issue up to 18,000 transferable licenses to for-hire vehicles authorizing them to pick up passengers by street hail anywhere outside Manhattan (except for the airports) and in Manhattan north of West 110th Street and north of East 96th Street. Up to 6,000 of these licenses for Street Hail Liveries can be issued in the first year of the program. Twenty percent of these licenses will be set aside for wheelchair accessible vehicles (City subsidies for accessible vehicle purchase/upgrades will be available).

These proposed rules will implement the state legislation, which outlines the characteristics of and the services that the new Street Hail Vehicles will provide to New York City residents and visitors. The state legislation and the proposed rules aim to improve access to safe, legal and convenient street hail service for the 6.7 million New York City residents who live outside of the neighborhoods where yellow taxi service is generally available.

The proposed rule changes are organized as follows:

- Amendments to Accessible Taxicabs (Chapter 53) and Medallion Taxicab Drivers (Chapter 54) to address driver training requirements and fees.
- Amendments to prohibit the use of the Street Hail Livery Vehicle color on any For-Hire Vehicles and Commuter-Van Vehicles not licensed as a Street Hail Livery (Chapters 59A, 60A, 61A).
- Eliminate the requirement that For-Hire Vehicles identify the Base Station License number on the exterior of the Vehicle (Chapter 59A)
- Amend the items required by Black Cars and Luxury Limousines to be displayed in the Vehicle (Chapter 59A).
- Requirements for base stations to affiliate a minimum number of Accessible Street Hail Liveries (Chapter 59B).
- Amend the documents required in a Paratransit Vehicle, and amendments to provide retirement waivers for Paratransit Vehicles affiliated with Bases which have a certain number of affiliated Accessible Street Hail Livery Vehicles or upon transfer of the Base License. (Chapter 60A, B).
- Amendments to new chapter on Street Hail Livery Service (Chapter 82) regarding affiliation restrictions, vehicle marking requirements, documents required in the Vehicle and other Vehicle equipment requirements for Paratransit Vehicles which are also Street Hail Liveries.

Purpose of Proposed Rules

The legislation enacted in Albany, which these proposed rules implement, authorizes the City to implement a program to issue permits to authorize hail service by liveries in certain areas of New York City. On April 19, 2012, the Commission passed rules to implement the program and these new proposed rules are intended to implement further changes based on staff and public input received regarding the program during the initial phase of rulemaking.

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. Subdivision (a) of section 53-07 of Title 35 of the Rules of the City of New York is amended to read as follows:

(a) Reserved [*Passenger Assistance Training*].

- (1) Taxicab Owner Must Pay for Training. The Taxicab Owner is responsible for paying any fees required to train each of Owner’s Approved Drivers under Section 54-04(n) of these Rules.

§53-07(a)(1)	Fine: \$50	Appearance: NOT Required]
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§2. Paragraph (1) of subdivision (n) of section 54-04 of Title 35 of the Rules of the City of New York is amended, and a new paragraph (5) is added, to read as follows:

- (1) Training Must be Approved by Commission. In order to become a driver of an Accessible Taxicab, a Driver, and on and after September 1, 2012, all new Applicants for a Taxicab Driver’s License, must attend a Commission-approved training course regarding Wheelchair Passenger assistance.
- (5) Beginning September 1, 2012, a new Applicant for a Taxicab Driver’s License must present a certificate of completion or other evidence that he or she has completed the training with his or her application. Failure to provide such proof will result in denial of the application.

§3. Subdivision (d) of section 59A-29 of Title 35 of the Rules of the City of New York is amended to read as follows:

(d) [*Taxicab Yellow*] Prohibited Colors for Vehicle Exteriors. No For-Hire Vehicle can be, in whole or in part, any shade of Taxicab Yellow, and no For-Hire Vehicle not licensed as a Street Hail Livery can be, in whole or in part, any shade of the Street Hail Livery color as identified in subdivision 82-33(j).

§4. The opening, unnumbered sentence of paragraph (1) of subdivision (g) of section 59A-29 of Title 35 of the Rules of the City of New York is amended to read as follows:

(1) The name of the Base Station[, its License number,] and telephone number in one of the following ways:

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

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

§6. The penalty provision of subdivision (b) of section 59B-15 of Title 35 of the Rules of the City of New York is amended, and a new paragraph (3) is added, to read as follows:

§59B-15(b)(1) and (2)	Fine: Suspension until minimum is met	Appearance: REQUIRED
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(3) Special Requirements for Street Hail Livery Bases. Effective January 1, 2013, unless the Chairperson has suspended the requirements of this section because all Street Hail Livery Permits which are required to be used with accessible vehicles are issued and outstanding:

- (i) A Street Hail Livery Base must affiliate a minimum number of Accessible Street Hail Liveries, which will depend on the number of Street Hail Liveries affiliated with the base.
- (ii) For purposes of determining whether a Street Hail Livery Base has met the requirement of subparagraph (i), a Street Hail Livery Base must have and maintain affiliations with Accessible Street Hail Liveries as follows:

<u>Number of Street Hail Liveries affiliated with Street Hail Livery Base</u>	<u>Number of Accessible Street Hail Liveries that the Base is required to affiliate</u>	<u>Can Paratransits that are also Accessible Street Hail Liveries be used to meet this requirement?</u>
<u><20</u>	<u>1</u>	<u>Yes</u>
<u>20 – 50</u>	<u>5</u>	<u>Yes</u>
<u>51 – 100</u>	<u>10</u>	<u>Yes, up to a maximum of 5</u>

<u>101 – 150</u>	<u>15</u>	<u>Yes, up to a maximum of 10</u>
<u>151 – 200</u>	<u>25</u>	<u>Yes, up to a maximum of 15</u>
<u>201 +</u>	<u>30</u>	<u>Yes, up to a maximum of 20</u>

(iii) A Street Hail Livery Base must maintain the minimum number of affiliated Accessible Street Hail Livery Vehicles at all times, and as a condition of licensure.

(iv) The Commission can review a Base’s compliance with this Rule at any time.

(v) A Base must not improperly manipulate, change or misrepresent its lists of affiliated Street Hail Liveries and Accessible Street Hail Liveries in an effort to avoid compliance with this Rule. If the Commission believes that a Base has manipulated, changed, or misrepresented any or all of such lists, it can charge the Base with a violation of subdivision 59B-13(d) of these Rules.

§59B-15(b)(3)	Fine: Suspension if fail to comply within 30 days of notice.	Appearance: REQUIRED
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§ 7. Section 60A-04(i) of Title 35 of the Rules of the City of New York is amended to read as follows:

(i) *Vehicle Mileage Requirements.* The Applicant for an original (new) License must submit a New York State Department of Transportation Form MC300, dated not more than one month from the application date, proving that the Vehicle meets the relevant mileage requirement:

(1) [On and after January 1, 2009, a vehicle must have fewer than 50,000 miles.

On and after January 1, 2010, a vehicle must have fewer than 25,000 miles.]

On and after January 1, 2011, a vehicle must be of the most recent model year or the immediately preceding model year and must have fewer than 500 miles.

(2) *Exception.* Applicants applying for a License will not be subject to this requirement if the application is:

- (i) Required because of the ownership transfer of the base with which the vehicle is affiliated; or
- (ii) For a vehicle which is currently Licensed as a Paratransit Vehicle.

§8. Section 60A-28 of Title 35 of the Rules of the City of New York is amended by adding a new subdivision (f) to read as follows:

(f) Prohibited Colors for Vehicle Exteriors. No Paratransit Vehicle can be, in whole or in part, any shade of the Street Hail Livery color as identified in Section 82-33(j).

<u>§60A-28(f)</u>	<u>Fine: \$350 for the first violation; \$500 for the second violation in 24 months; revocation for the third violation in 36 months.</u>	<u>Appearance: REQUIRED</u>
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§9. Subdivision (a) of section 60A-29 of Title 35 of the Rules of the City of New York is amended by adding a new paragraph (10), to read as follows:

(10) If Paratransit vehicle is operating as a Street Hail Livery vehicle:

(i) The Street Hail Livery License.

§10. Section 60A-34 of Title 35 of the Rules of the City of New York is amended to read as follows:

- (a) *[On and after January 1, 2009, all Paratransit Vehicles that are of model year 2000 or earlier must be retired from Paratransit service no later than the expiration dates of their Paratransit Vehicle Licenses.*
- (b) *On and after January 1, 2010, all Paratransit Vehicles that are of model year 2002 or earlier must be retired from paratransit service no later than the expiration dates of their Paratransit Vehicle Licenses.*
- (c) *On and after January 1, 2011, all Paratransit Vehicles that are of model year 2004 or earlier must be retired from paratransit service no later than the expiration dates of their Paratransit Vehicle Licenses.*
- (d) *On and after January 1, 2012, all Paratransit Vehicles must be retired no later than seven years after the Vehicle was first licensed.*
- [(e)] (b) Mandatory Retirement.

- (1) A Paratransit Vehicle that cannot pass the New York State Department of Transportation inspection must be retired, regardless of whether its retirement date has been reached.
- (2) A Paratransit Vehicle which has reached its retirement date must be retired, regardless of whether it may still pass the New York State Department of Transportation inspection.
- (3) A Paratransit Vehicle which is beyond its retirement date because it has been in use as a Street Hail Livery (see subdivision (d) below) or because its Base had a sufficient number of affiliated Street Hail Liveries (see subdivision (e) below), must be retired immediately when it is no longer eligible for the extensions in subdivisions (d) or (e) of this section.

[(f)](c) *Extension of Time for Retirement.*

- (1) A Vehicle Owner can request an extension of a Vehicle's retirement date.
- (2) Any request for an extension of the retirement date must be made at least two months before that date.
- (3) The extension request must include documentation demonstrating that:
 - (i) A new vehicle has been ordered.
 - (ii) The new vehicle will not be delivered until after the retirement date.
 - (iii) The new vehicle will be delivered no later than 60 days after the retirement date.
- (4) If the Vehicle Owner's documentation is complete and accurate, the retirement date of the Vehicle will be extended to the projected delivery date of the new vehicle. The Chairperson may confirm the completeness and accuracy of the documentation.

(d) Exception applicable to Paratransit Vehicles which are also Street Hail Liveries. A Paratransit Vehicle that is also in use with a Street Hail Livery License is not required to meet the retirement dates in this section 60A-34 for so long as the Paratransit Vehicle continues in use with a Street Hail Livery License.

(e) Exception applicable to Paratransit Vehicles affiliated with a Base which has a minimum number of affiliated Paratransit Vehicles licensed as Street Hail Liveries. A Paratransit Vehicle affiliated with a Paratransit Base is not required to meet the retirement dates in this section 60A-34 for so long as that Paratransit Base maintains affiliations with a minimum

number of Paratransit Vehicles which are licensed as Street Hail Liveries ,which number is the lesser of:

(1) Ten (10), or

(2) Twenty (20) percent of the total number of Paratransit vehicles affiliated with that Base.

§11. Subdivision (c) of section 60B-08 of Title 35 of the Rules of the City of New York is amended to read as follows:

(c) Upon approval of the transfer, the Commission will permit the entire fleet to be transferred to the new Base [as long as the Vehicles meet the age retirement requirements established in Sub-chapter 60A-34 of this Chapter].

§12. Subdivision (a) of section 61A-27 of Title 35 of the Rules of the City of New York is amended by adding a new paragraph (5), to read as follows:

(5) Prohibited Colors for Vehicle Exteriors. No Commuter-Van Vehicle can be, in whole or in part, any shade of the Street Hail Livery color as identified in subdivision 82-33(j).

§61A-27(a)(5)	Fine: \$350 for the first violation; \$500 for the second violation in 24 months; revocation for the third violation in 36 months.	Appearance: REQUIRED
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§13. Subdivision (i) of section 82-04 of Title 35 of the Rules of the City of New York is amended to read as follows:

(i) Affiliation with only one Base.

(1) A Street Hail Livery License and the Vehicle with which the License is used can affiliate with only one Base at a time and that Base must be a Validly licensed Street Hail Livery Base.

(2) Exception: A Vehicle which is also a Paratransit Vehicle can be affiliated with both one Street Hail Livery Base and one Paratransit Base at the same time.

§14. Subdivision (m) of section 82-33 of Title 35 of the Rules of the City of New York is amended to read as follows:

(m) Special Exception for Accessible Street Hail Liveries that are also Paratransit Vehicles.

- (1) Accessible Street Hail Liveries that are also Paratransit Vehicles must only [also] comply with NYS marking requirements and the requirements of Chapter 60 A; such vehicles are NOT required to comply with the requirements of this section.
- [(2) Where such NYS requirements conflict with the requirements of this Chapter, those NYS requirements will supersede the provisions of this Chapter.
- (3) Where NYS requirements supersede the requirements of this Chapter, the Licensee will work with the Chairperson to determine appropriate placement of Commission markings.]

§15. Section 82-34 of Title 35 of the Rules of the City of New York is amended by adding a new subdivision (b), to read as follows:

(b) Subdivision (a) above shall not apply to a Paratransit vehicle operating as a Street Hail Livery vehicle. Such vehicles shall comply with the requirements of Chapter 60A.

§16. Subdivisions (a) and (b) of section 82-36 of Title 35 of the Rules of the City of New York are amended to read as follows:

- (a) *Requirement.* A Street Hail Livery that is not also a Paratransit Vehicle must be equipped with a partition that isolates the Driver from the rear seat Passengers and meets the requirements set forth in Subchapter B of these Rules.

§82-36(a)	Fine: \$350 if plead guilty before a hearing and supply a condition corrected form issued by TLC’s Safety and Emissions Division; \$450 if found guilty following a hearing. Summary Suspension until the condition is corrected.	Appearance NOT REQUIRED
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(b) *Exemptions.*

- (1) A Street Hail Livery will be exempt from the requirements of subdivision (a) if the Vehicle is also a Paratransit Vehicle or is equipped with *all* of the following safety devices:
 - (i) An FCC-licensed commercial two-way radio with an emergency button that would notify the dispatcher that the Driver is in trouble or a cellular telephone that has an emergency dialing feature;
 - (ii) The distress signaling light required by § 82-35(c), above;
 - (iii) An approved in-vehicle camera system.

**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: Amendment of Street Hail Livery Rules

REFERENCE NUMBER: TLC-33

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 15, 2012
Date

**NEW YORK CITY LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, NY 10007
212-788-1087**

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

RULE TITLE: Amendment of Street Hail Livery Rules

REFERENCE NUMBER: 2012 RG 044

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 15, 2012