NEW YORK CITY TAXI AND LIMOUSINE COMMISSION

Notice of Promulgation

Notice is hereby given in accordance with section 1043(f) of the New York City Charter ("Charter") that the Taxi and Limousine Commission ("TLC") promulgates rules to increase minimum per-mile pay rates for high-volume for-hire vehicle drivers to account for increased driver expenses, change the way utilization rates are calculated and applied, prevent high-volume companies from manipulating driver availability, and collect additional data related to driver availability.

The rule is promulgated pursuant to sections 1043 and 2303 of the Charter and section 19-503 of the Administrative Code of the City of New York. This rule was published in the City Record on January 3, 2025 for public comment. On February 5, 2025 a public hearing was held virtually by the TLC, and the rules were adopted by the Commission on June 25, 2025.

Statement of Basis and Purpose

TLC is adopting changes to its rules relating to per-trip driver pay for trips dispatched by high-volume for-hire services (HVs). These rules amend the minimum per-mile rate to account for increased driver expenses, change the way utilization rates are calculated and applied, limit the ability of the HV companies to manipulate driver availability to achieve utilization rates that do not reflect actual driver working time, and expand TLC's data reporting requirements so the agency can better monitor industry trends and enforce violations. The numerous pieces of this comprehensive proposal together strike a balance to ensure drivers are adequately paid for all their working time and expenses while granting both drivers and HV companies flexibility and predictability and avoiding restrictions on driver access to the HV platforms.

TLC received extensive written and oral comments on this rule proposal as part of the February 5, 2025 public hearing and during the comment period that TLC extended, in response to a request of the HV companies, for an additional month, until March 5, 2025. TLC has revised several aspects of the rules to clarify the approach to implementation and address issues raised in public comments.

In 2018, TLC drafted a per-trip driver minimum pay policy applicable to the largest for-hire vehicle (FHV) bases, now categorized as HVs and currently comprising Lyft and Uber, and commissioned two economists to study the city's FHV industry and evaluate the agency's proposed policy. The resulting report was issued in 2018 and favorably evaluated TLC's proposed driver pay policy.[1] Following Local Law 150 of 2018, which reiterated the authority of TLC to

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[1] James A. Parrott and Michael Reich, "An Earnings Standard for New York City's App-based Drivers: Economic Analysis and Policy Assessment" (June 2018), *available at* http://www.centernyc.org/an-earnings-standard. Hereinafter "the 2018 Report." The precise expense estimates were revised in an updated January 2019 report available at https://www.centernyc.org/the-new-york-city-app-based-driver-pay-standard-revised.

establish a driver pay floor,[2] TLC adopted minimum per trip payments for HV trips, based on a formula which used a utilization rate, per mile rate, and a per minute rate, through rulemaking.[3] A legal challenge brought by Lyft was unsuccessful, as the Court upheld TLC's policy finding that TLC could create a pay formula and that the per trip formula achieved agency objectives.[4] Moreover, TLC properly considered the rule's effects on the industry, and the driver pay rule based on the utilization rate, per minute, per mile formula was supported by facts and analysis. The driver pay rules went into effect in February of 2019 and have since been amended, primarily to adjust the per-mile and per-minute rates to reflect inflation.[5]

Driver Expenses

Local Law 150 of 2018 specifically states that, in establishing "a method for determining the minimum payment that must be made to a for-hire vehicle driver for a trip dispatched by a high-volume for-hire service", TLC must consider driver expenses.[6] TLC's adopted rules established minimum per-trip payments for HV trips, based on a formula, to provide drivers a minimum take-home pay that covers their expenses and accounts for total working time, including time spent transporting passengers as well as time waiting for a dispatch and driving to pick up passengers.[7] A critical component of the minimum pay formula is the **per-mile rate** that is calculated to cover a typical driver's expenses, such as their costs to acquire, license, insure, and maintain a vehicle with which to provide for-hire service. TLC rules also established yearly adjustments to the per-mile rate to account for inflation using the Consumer Price Index for Urban Wage Earners and Clerical Workers for the NY-NJ-PA metro area (CPI-W), to ensure that real driver earnings were not reduced over time.[8]

TLC has increased the per-mile rate five times since the minimum pay rules were implemented in February of 2019, including annual adjustments in 2020, 2022, 2023, and 2024 that captured inflation as measured by the percent increase in the CPI-W.[9]

Separately from the CPI-W increases, in November of 2022, following a period in which vehicle and gasoline costs rose much faster than the overall CPI-W, TLC adopted rules that provided an update to the per-mile rate using the regional Transportation Index published by the U.S. Bureau of Labor Statistics to account specifically for changes in vehicle-related expenses.[10] Although a legal challenge by Uber required that TLC provide greater explanation of the reasons and methodology for increasing the per-mile rate in such a manner, an updated version of the rules

[2] Local Law 150 of 2018, codified as New York City Ad. Code § 19-549, *available at* https://nyc.legistar.com/LegislationDetail.aspx?ID=3487613&GUID=E47BF280-2CAC-45AE-800F-ED5BE846EFF4&Options=ID|Text|&Search=150.
[3] The 2018 rule package as adopted is available at https://www1.nyc.gov/assets/tlc/downloads/pdf/driver_income_rules_12_04_2018.pdf.
[4] Tri-City LLC. Vs. New York City Taxi and Limousine Commission, 151037/2019; affirmed by Tri–City, LLC v. New York City Taxi and Limousine Commission, 189 A.D.3d 652 (2020).
[5] *See* https://www.nyc.gov/assets/tlc/downloads/pdf/proposed_rule_fhv_driver_pay_03_08_2023.pdf.
[6] Ad. Code § 19-549(b).
[7] That 2018 rule package is available at https://www1.nyc.gov/assets/tlc/downloads/pdf/driver_income_rules_12_04_2018.pdf.
[8] In rules passed in 2018 as § 59B-24(a)(4); now § 59D-22(a)(4).
[9] Due to the Covid-19 pandemic, there was not an adjustment in 2021.
[10] https://www.nyc.gov/assets/tlc/downloads/pdf/Statment_of_Substantial_Need_310_signed.pdf

was adopted and implemented in March of 2023. Combined with the scheduled CPI-W increase calculated in February 2023, the additional Transportation Index-based adjustment led to a total increase of 13.16% in the per-mile rate for 2023.

While the driver costs that form the basis of the per-mile rate have been adjusted based on percent increases in other indexes, the underlying figures—such as vehicle payments, insurance premiums, and other for-hire expenses—have not been systematically analyzed or individually revised since the base rate was implemented in February 2019. Several factors have contributed to changes in the *composition* of driver expenses—distinct from the *magnitude* of individual costs, which are captured through inflation adjustments—since the initial expense model was developed in 2019. The steady shift from sedans to mid-size SUVs, for example, means drivers today tend to make larger upfront investments to acquire their vehicles. Further, the limitation on new for-hire vehicle licenses has expanded the market for short-term vehicle rentals, which have an expense structure distinct from owner-operated vehicles. TLC policy efforts like the Green Rides Initiative have increased the relative importance of wheelchair accessible vehicles (WAVs) and electric vehicles (EVs) to overall driver costs. While WAV- and EV-related costs are not entirely new, specific cost items like EV charging were not addressed by the 2018 expense model. This is a critical omission given that more than 20% of HV trips in October 2024 were completed in either a WAV or EV. And additional changes are likely on the horizon: recent instability in the for-hire vehicle insurance market may signal another change, given the potential for significant increases to insurance premiums due to uncertainty in the for-hire insurance market.[11]

Seeking to better understand how the composition of driver expenses in New York City has evolved, TLC commissioned Dr. James A. Parrott of the Center for New York City Affairs at the New School and co-author of the 2018 Report, to develop a comprehensive update of the expense model. Consistent with the methods Dr. Parrott used to inform the original driver pay standard adopted in 2019, Dr. Parrott's study employed a driver survey and analyzed TLC and public data on the current vehicle fleet as well as the costs of vehicle-related expenses in New York City. The analysis and resulting report published in December 2024 paid particular attention to the costs of acquiring and operating EVs and the costs of short-term vehicle rentals to ensure structural changes in the industry are sufficiently reflected in the composite expense model.[12]

The survey was sent to the over 89,000 active HV drivers who performed at least 100 trips between November 2023 and November 2024 and generated 6,757 responses. Cleaning the survey data to remove outliers resulted in an overall response rate of 4.8%, which is in line with the 5.5% response rate achieved by the survey fielded as part of the initial 2018 Report. Based on analysis of the cleaned survey responses, analysis of the characteristics of the 86,000 vehicles providing HV service as of early 2024, and analysis of other TLC and public data as referenced in the report, Dr. Parrott recommended a composite expense rate weighted by fuel type and ownership arrangement of $0.871 for non-WAVs and $1.061 for WAVs.

TLC received extensive written and oral comments on the driver expense aspects of the rule proposal as part of the February 5, 2025 public hearing and during the comment period that

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[11] https://www.nytimes.com/2024/09/16/nyregion/american-transit-insurance-uber-lyft-nyc.html

[12] The December 2024 driver expense report, which provides greater detail on the driver expense methodology and findings, is available at https://www.nyc.gov/assets/tlc/downloads/pdf/driver_expense_report.pdf.

TLC extended to March 5, 2025 by request of the HV companies. Drivers and driver representative groups, including members of the New York Taxi Workers Alliance (NYTWA) and the Independent Drivers Guild (IDG), testified largely in support of the proposal. High-volume companies Lyft and Uber testified in opposition. Key issues related to TLC's estimation of driver expenses raised in comments submitted by Uber and Lyft are summarized below along with TLC's response.

Addressing concerns about vehicle depreciation and residual value

One area of focus among the comments received from HV companies was the assumption in Dr. Parrott's driver expense report that gas-powered and electric vehicles are fully depreciated after five- and six-years, respectively, based on typical loan lengths reported by survey respondents and hold minimal residual resale value. The assumption that financed vehicles are fully depreciated at the end of the loan term is consistent with the methodology adopted in the 2018 Report and does not represent a change in approach by Dr. Parrott or TLC. However, recognizing that an older, high-mileage vehicle used intensively for HV for-hire vehicle service may, as the HV companies argued in their comments, nevertheless retain some value, TLC deemed it reasonable to quantify an amount of residual value. This estimation was tailored to vehicles used to provide for-hire service in New York City and incorporated into the composite expense factor.

TLC worked with Dr. Parrott on a supplemental expense report to estimate the residual value of common older vehicles still active in providing high-volume FHV service using inspection records and estimated vehicle trade-in values provided by Kelley Blue Book. The weighted average trade-in values derived from the analysis were $7,200 for gas-powered vehicles and $10,800 for EVs; these values were incorporated into the expense factors for owned vehicles on an amortized basis.[13] These modifications to the expense model developed in December 2024 report slightly reduce the net impact of the increase to the per-mile expense factor.

Use of a driver survey along with other publicly available data sources is merited because other data sources are insufficiently tailored to New York City's for-hire market and is consistent with past TLC practice

Several other comments submitted by the HV companies more generally called into question the use of a driver survey and took issue with the additional data sources analyzed in Dr. Parrott's December 2024 report. In their comments, the HV companies submit that Dr. Parrott and TLC should have collected expense data from specific non-survey sources, such as AAA, vehicle dealerships, and Kelley Blue Book.

As noted above, the December report, consistent with previous TLC practice, was based not only on an extensive survey of drivers but also on publicly available data regarding vehicle expenses such as financing costs, fuel costs, and EV charging costs. Median and average survey responses were considered in tandem with other data on vehicle expenses, including data from several of the sources specified in the HV companies' comments.

[13] A supplemental report detailing the analysis of residual values is available at: https://www.nyc.gov/assets/tlc/downloads/pdf/driver_supplemental_report.pdf

Where available, Dr. Parrott used publicly available and TLC data sources to estimate driver expenses and validate survey-reported estimates. Licensing costs were calculated using TLC's publicly available figures. Survey-reported vehicle acquisition costs, including financing costs, were corroborated using publicly available payment calculators that assumed typical interest rates. Fuel costs for gas-powered vehicles were estimated using government-issued vehicle mileage ratings and average gas costs for the six months prior to publication. EV charging costs were derived using survey data on charging mode and times but verified with government-reported data on electricity costs and information on charging times and costs published by EV manufacturers and charging providers. Further, as suggested in the companies' comments, residual value estimates were specifically developed using data from Kelley Blue Book. However, in several instances publicly available data and TLC data sources were insufficient on their own in estimating certain driver expenses. In those cases, TLC maintains, as it has since the initial 2018 Report, that surveying drivers is the best approach to gathering data on those expenses to ensure that all driver expenses are accounted for in the driver pay formula. For example, publicly available data on insurance premiums and vehicle maintenance is imperfect and insufficiently tailored to the New York City for-hire market, and survey data is the better approach to determine those driver expenses.

The December report noted steps taken to corroborate survey-reported expenses with an analysis of vehicle expenses published by an Uber consultant, HR&A.[14] The table below compares select individual cost items estimated in the December Report to the estimates developed in the Uber-funded HR&A report. The comparison highlights similar results for fuel costs, EV charging expenses, and insurance.

	HR&A Uber Report		**TLC-commissioned Expense Report (December 2024)**	
Blended costs per-mile for ICE and EVs	*Owners*	*Renters*	*Owners*	*Renters*
Licensing[15]	$0.005	$0.005	$0.042	$0.008
Vehicle acquisition (incl. residual value)	$0.138	NA	$0.280	NA
Rental costs	NA	$0.743	NA	$0.845
Fuel/EV charging	$0.136	$0.136	$0.138	$0.138
Insurance	$0.136	NA	$0.141	NA
Maintenance	$0.101	NA	$0.137	$0.021

Given the precedent set by past revisions to the driver pay rules regarding the use of a driver survey and the similar results produced by this effort compared to an industry-funded study, TLC maintains that the methodology underlying the December 2024 Report, combined with the supplemental study of vehicles' residual values discussed below and adopted in response to stakeholder comments, yields an accurate overall estimate of drivers' expenses.

[14] A more detailed comparison to HR&A's analysis can be found in Appendix Exhibit 3 of the December 2024 expense report.
[15] HR&A reports licensing costs that are substantially lower because their analysis accounted only for the costs associated with maintaining a TLC driver's license, omitting all vehicle licensing and registration costs.

Revising the composite expense factor based on public comments

Bringing together the initial findings of the December 2024 report and the new analysis of vehicles' residual values, the supplemental report arrived at a revised expense factor of **$0.850 per mile** for non-WAVs before adjusting for utilization. This revised rate reflects **an increase of 7.7%** compared to the non-WAV minimum effective March 1, 2024, and is weighted based on fuel type and ownership arrangement as shown in the table below. The revised per-mile factor for WAVs, weighted by ownership arrangement, was **$1.061**, 3.9% greater than the $1.021 WAV per-mile factor effective March 1, 2024, before adjusting for utilization.[16]

Non-WAV composite expense factor			
Fuel type/ownership arrangement	*Per-mile factor*	*Weight*	*Weighted factor*
Gas-powered vehicles, owned	$0.753	0.6125	$0.461
EV, owned	$0.869	0.0875	$0.076
Gas-powered vehicles, rented	$1.028	0.2625	$0.270
EV, rented	$1.133	0.0375	$0.042
Composite total			**$0.850**

WAV composite expense factor			
Fuel type/ownership arrangement	*Per-mile factor*	*Weight*	*Weighted factor*
Gas-powered vehicles, owned	$1.037	0.700	$0.726
Gas-powered vehicles, rented	$1.118	0.300	$0.335
Composite total			**$1.061**

TLC is adopting amendments to the per-mile rates in this rule to account for these new driver expense calculations. TLC will continue to monitor the efficacy of CPI-W-based adjustments in capturing real changes to drivers' expenses through supplemental data analysis and routine driver outreach.

Utilization Rate

An additional critical component of the driver pay rules is the utilization rate. In short, the utilization rate ensures that drivers are paid for all their working time—including time available for dispatch and time en route to a passenger—not just the time that they are performing a trip with a passenger in the vehicle.

The utilization rate is presently calculated by dividing the total time that all HV drivers spend transporting passengers by the total amount of time that all drivers are logged into a HV platform (including time waiting for a dispatch, time en route to pick up a passenger, and time with a passenger). The per-mile and per-minute pay rates are then divided by the utilization rate so that both trip time and non-trip time are accounted. To illustrate, if drivers in the aggregate are logged into the apps for two million hours and are with a passenger on a trip for one million hours, the utilization rate is 50%. A trip that pays $20 based on the per-mile and per-minute minimum rates

[16] The WAV composite expense factor was not weighted by fuel type due to the lack of an electric accessible vehicle on the market.

without accounting for utilization would pay $40 after applying the utilization rate ($20 divided by 50% is $40). In other words, in this example, if drivers are only paid for time driving with a passenger, but they spend just as much time waiting for dispatches and traveling to pick up passengers, then they will earn half the income.

As recognized in the 2018 Report, the inclusion of a utilization rate in the driver pay formula is intended to incentivize HV companies to maintain a higher utilization rate, keeping drivers busier so that they are on income-generating trips for a higher percentage of their working time. The HV companies can do this in several ways, including most notably by not onboarding new drivers, which was the primary intended outcome discussed throughout the 2018 Report.[17] When the supply of drivers is too far above the demand for rides, the result is that more drivers will be idle waiting to be dispatched and the utilization rate will fall (the denominator of the formula, total time on app, will increase more than the numerator, time on a trip, thus lowering the utilization rate).

However, instead of not onboarding new drivers, the companies have for many years continued to onboard new drivers, increasing driver supply without ensuring adequate trips for those new drivers. In response to this driver oversupply caused by the companies' onboarding practices, and to raise the utilization rates to the levels required by the current rules, the companies have restricted platform access for drivers who were already working a shift and completing trips.[18] These platform restrictions elevate the utilization rate but prevent drivers from working and earning the daily income they were expecting to earn. Because many drivers work fewer hours due to limits on platform access, these restrictions ultimately reduce driver income in clear conflict with the intent of local law and the agency's driver pay rules.[19]

These rules aim to address issues with the ways utilization rates are calculated and applied in order to more fully attain the benefits of TLC's first-in-the-nation driver pay policy.

The existing initial industrywide utilization rate of 58% was based on limited sample data provided by the HV companies before TLC began requiring more robust data reporting in 2019 and include data from two companies no longer operating in New York City (Juno and Via). To reflect current industry dynamics, TLC is proposing that the industrywide time-based utilization rate be set at 53.3%. This rate was calculated using data from May 2023 through April 2024, the most recent 12-month period in which HV companies were not using lockouts to manipulate when drivers appeared available.

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[17] *See, e.g.*, pp. 56-57 ("With the new policy, companies will seek ways to increase utilization, such as: limiting the entry of new drivers into their systems; queuing the next ride when a driver is close to completing the current ride; allocating trips to drivers whose driving records suggest they drive very long hours and are therefore likely to reduce their hours; and by promoting more shared rides that increase measured utilization. The app technology provides the companies real-time information on driver time and history. In sum, the app companies could readily improve their management of driver utilization.").

[18] HV companies have instituted these driver restrictions at least twice, in 2019 and in 2024. See, e.g., https://www.vice.com/en/article/the-lockout-why-uber-drivers-in-nyc-are-sleeping-in-their-cars/ and https://www.bloomberg.com/graphics/2024-uber-lyft-nyc-drivers-pay-lockouts.

[19] Another way that the 2018 Report proposed that HV companies could maintain high utilization rates was through an increase in shared rides as a way to operate the fleet more efficiently and increase the proportion of passenger time by linking trips. Instead, since February 2019 (the month that the driver pay rules first went into effect), HV shared rides have declined by about 95%.

Until now, TLC has only used a time-based utilization rate, i.e., the percentage of time that drivers are on a trip. Going forward, this time-based utilization rate will only be applied to the per-minute—i.e., time-based—portion of the driver pay formula. For the per-mile—i.e., distance-based—portion of the formula, TLC will use a distance-based utilization rate, defined as the percentage of total miles driven that drivers are on a trip (trip miles divided by the sum of miles driven while waiting for a trip dispatch, miles driven en route to pick up a passenger, and miles driven while on a trip). In light of TLC's current understanding of utilization rates based on over five years of detailed monthly trip, session, and vehicle location data reporting by the HV companies, TLC determined that adding a distance-based utilization rate to the formula will more closely fulfill the intent of the utilization rate portion of the driver pay rules by accurately scaling the trip-based pay rates for time and distance to account for all time worked *and* all miles traveled while working. This approach also aligns New York City with other jurisdictions that have adopted similar driver pay formulas.[20] The distance-based utilization rate as estimated using data from May 2023 through April 2024 was 68.5%. TLC is also updating its data specifications so that distance-based utilization rates may be calculated more easily in the future.

To further reduce the incentive to restrict driver access to the apps and align TLC's driver pay rules with the approach of other jurisdictions, TLC will not automatically calculate and adjust applied utilization rates going forward. Instead, TLC will monitor and publish utilization rates and alter such rates through the rulemaking process as needed to reflect changing industry dynamics, such as vehicle activity levels and trip demand. TLC's commitment to changing utilization rates only through the rulemaking process will give all stakeholders an opportunity to contribute to this process through public comment. TLC believes that this approach is superior and offers greater transparency than making automatic changes on a predetermined schedule without full consideration of other factors affecting the industry including citywide mobility trends, economic changes, and changes in the companies' business practices, such as the use of platform restrictions or driver registration waitlists.

Together, TLC's increase in the per-mile driver expense rate, alteration of the time-based utilization rate, addition of the distance-based utilization rate, and the March 2025 inflation increase to the per-minute pay rate pursuant to the CPI-W of 3.92%,[21] will result in **<u>a minimum per-trip payment of approximately $29.07 for a sample trip</u>** of 7.5 miles and 30 minutes. This revision, accounting for the residual value of older vehicles, reflects **<u>an overall increase of approximately 5.0% compared to the 2024 rates and 26.3% compared to the original 2019 rates</u>**.

Finally, while no longer automatically calculating and adjusting applied utilization rates, to minimize the incentive for lockouts, help ensure the efficient operation of the for-hire market and prevent TLC's minimum pay rules from being circumvented, TLC is adopting rules that

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[20] *See* reports on Seattle, https://www.seattle.gov/documents/Departments/LaborStandards/Parrott-Reich-Seattle-Report_July-2020%280%29.pdf, and Minnesota, https://www.dli.mn.gov/sites/default/files/pdf/TNC_driver_earnings_analysis_pay_standard_options_report_030824.pdf.

[21] TLC calculates the percent increase in the annual average CPI-W in January, which is applied March 1. Because TLC is proposing an increase in the per-mile rate pursuant to the driver expense study based on data collected in 2024, on March 1, 2025, only the per-minute rate was increased in accordance with the change in CPI-W.

govern drivers' access to the applications to address the issue of lockouts and HV company manipulation of driver availability data. Specifically, the amendments establish that HV companies are required to provide 72-hours' notice to any driver the company will not permit to log into the application to accept trips on a given day. This is primarily intended to ensure that drivers have reasonable expectations of when they will be able to access the applications and thus reasonable expectations of their working hours and incomes.[22] Additionally, the amendments establish that once an HV company has permitted a driver to log into the application to accept trips, the HV company may not log the driver off for the next 16 hours except in certain limited circumstances.[23] This is primarily intended to address the issue of "mid-shift lockouts" whereby drivers, after being able to access the application and perform trips, are periodically and unpredictably logged off by the companies, boosting utilization rates but lowering driver hourly pay. This will also help prevent a "race to the bottom" whereby if one HV company engages in lockouts and those locked out drivers flood the other company's app, the other company is more likely to follow suit so they are not at a competitive disadvantage with an oversupply of drivers. To ensure adequate monitoring and compliance of these requirements, TLC is expanding its data collection from HV companies to include more detailed information on driver lockouts.

In addition to the changes to driver expense figures noted above, TLC also clarifies in § 59D-22(c) that the 16-hour driver access requirement resets after the driver has been logged out for eight hours. This is consistent with the eight-hour reset period in TLC's longstanding driver fatigue rules.[24]

Compared to revisions of the driver expense factors, TLC received fewer public comments on the addition of a 72-hour notice requirement and 16-hour driver access requirement. The incorporation of an eight-hour reset to the 16-hour access requirement clarifies the implementation approach of this new requirement and responds to an issue raised in public comments regarding the relationship between the 16-hour access requirement and TLC's existing Driver Fatigue Rules, which is discussed further below. TLC balanced the need to provide reasonable expectations to Drivers of their schedule and income and HV Companies' business needs.

Clarifying the relationship between the 16-hour access requirement and driver fatigue rules

Comments received from Uber raised concerns about the relationship between the 16-hour access requirement and TLC's Driver Fatigue Rules, which limit drivers' trip-hours to 12 hours every 24 hours without a break of eight consecutive hours and 60 hours weekly. The above description of the 16-hour access requirement notes that companies can still restrict access in limited circumstances. One such circumstance would be a driver whose total trip time exceeds the

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[22] This 72-hour notice requirement is similar to New York City's scheduling requirement for retail workers. *See* Ad. Code Title 6 § 7-650(b) ("such work schedule must be . . . transmitted electronically no later than 72 hours before the employee's first shift on the work schedule").

[23] TLC is proposing 16-hour lockout protections because, according to TLC data, the overwhelming majority of HV drivers work a total of less than 12 hours a day, but will often take breaks during the day to maximize their earnings, for example working six hours during the morning rush hour, taking a mid-day break, and then six hours during the evening rush hour.

[24] *See* § 80-14(f)(2).

thresholds established in the Driver Fatigue Rules. In that instance, the HV company is permitted to limit the drivers' platform access to comply with the Driver Fatigue Rules. As such, contrary to concerns raised in Uber's comments that the access requirement would undermine compliance with other TLC rules related to driving time, there is no conflict between these promulgated rules and TLC's Driver Fatigue Rules, and no further changes to these promulgated rules are needed.

TLC received several other comments in opposition to these rules, summarized below.

TLC should remove the limitations on FHV licenses and change the timetable for the Green Rides Initiative

Commenters on these rules have also expressed opposition to other TLC policies and initiatives. TLC finds that those comments are outside the scope of this rulemaking process and declines to address those issues in these promulgated rules. More specifically, the Green Rides Initiative remains a critical effort to improve air quality, expand electric vehicle charging infrastructure, and increase accessibility, and declines to walk back those efforts. Similarly, TLC evaluates its license issuance policies on an annual basis through a data-driven report and declines to address issues related to the availability or type of FHV licenses through this rulemaking process. As of its most recent license review report, after evaluating myriad factors including driver earnings, TLC determined that no additional licenses should be issued except for wheelchair accessible vehicles.[25]

Platform Access

HV Bases Uber and Lyft argue that these rules improperly interfere with their business practices by limiting their ability to restrict platform access. Yet, platform access restriction without notice can lead to serious economic harm. HVs' business models depend on drivers utilizing their platforms full-time as a primary source of income, in excess of passenger demand, and undertaking substantial related economic investments, such as the purchase or renting of an FHV and related expenses. These notice requirements are meant to protect against arbitrary and unfair economic disruptions, and significantly, do not mandate platform access.

Evaluating negative effects

Lyft argues that increased pay rates combined with reduced passenger demand will likely result in an oversupply of drivers and ultimately force Lyft to raise prices. Lyft suggests that these changes will result in a range of negative outcomes, including reduced ride demand, causing an overall decrease in driver pay. Lyft also claims it may be required to begin de-platforming drivers. Lyft concedes that passenger demand is already declining, independent of these proposed rules. As noted previously, the HV Bases have other mechanisms to affect the pricing of their service, including increasing efficiency, adjusting driver onboarding, and adjusting commission rates.[26]

[25] *See* https://www.nyc.gov/assets/tlc/downloads/pdf/license-pause-report-2025-02.pdf.
[26] *See* 2018 report, pages 53-55.

While warnings about TLC's driver pay rules resulting in these negative outcomes have been frequent since the rules were adopted almost seven years ago, TLC has not seen sufficient evidence that these minimum standards for driver pay, or amendments to those standards, have resulted in or will result in these outcomes.

TLC's authority for these rules is found in sections 1043 and 2303 of the New York City Charter and sections 19-503 and 19-549 of the New York City Administrative Code.

<u>New material is underlined.</u>
[Material inside brackets indicates deleted material.]

Section 1. Subdivision (j) of section 59D-03 of Title 35 of the Rules of the City of New York is amended to read as follows:

(j) *Utilization Rate* refers to the percentage of time <u>or distance</u>, in aggregate, that all Drivers who have made themselves available to accept dispatches from High-Volume For-Hire Services spend transporting passengers on trips dispatched by High-Volume For-Hire Services. The Utilization Rate is calculated by dividing the total amount of time <u>or distance</u> those Drivers spend transporting passengers on trips dispatched by High-Volume For-Hire Services, by the total amount of time <u>or distance</u> Drivers are available to accept dispatches from High-Volume For-Hire Services, have been dispatched by a High-Volume For-Hire Service to pick up a passenger but do not have a passenger in the vehicle, and are transporting passengers on trips dispatched by a High-Volume For-Hire Service.

§ 2. Subparagraphs (iv) and (v) of paragraph (2) of subdivision (a) of section 59D-14 of Title 35 of the Rules of the City of New York are amended to read as follows:

(iv) The geographic position of the Vehicle during the entire time the Vehicle is available to accept dispatches from the High-Volume For-Hire Service at intervals no less frequent than every sixty (60) seconds<u>, with a designation of the Vehicle status at each geographic position and the distance traveled since the previous geographic position</u>

(v) The date and time at which the Vehicle became unavailable to accept dispatches from the High-Volume For-Hire Service<u>, or was prevented from becoming available, with a designation of the reason for the Vehicle unavailability including failure to meet licensure requirements, violation of TLC rules, violation of company rules or policies, and supply management</u>

§ 3. Paragraph (1) of subdivision (a) of section 59D-22 of Title 35 of the Rules of the City of New York is amended to read as follows:

(1) *Per Mile Rate*. For each mile a Driver transports a Passenger in the City on

a trip dispatched by the High-Volume For-Hire Service, the High-Volume For-Hire Service must pay the Driver no less than [$0.762] $0.850 per mile for a trip dispatched to a Vehicle that is not an Accessible Vehicle and [$0.987] $1.061 for a trip dispatched to an Accessible Vehicle, divided by the High-Volume For-Hire Service's Utilization Rate, and for trips that begin in the City but end outside of the City, the Base must pay the Driver no less than [$1.523] $1.758 per mile for a trip dispatched to a vehicle that is not an Accessible Vehicle and no less than [$1.975] $2.122 per mile for a trip dispatched to an Accessible Vehicle for each mile a Driver transports a Passenger outside of the City; and

§ 4. Subdivision (b) of section 59D-22 of Title 35 of the Rules of the City of New York is amended to read as follows:

(b) *Applied Utilization Rate*. The applied Utilization Rate for purposes of calculating the per-minute [and per-mile rates] rate for all High-Volume For-Hire Services will be [58%] 53.3%. The applied Utilization Rate for purposes of calculating the per-mile rate for all High-Volume For-Hire Services will be 68.5%. [Each January, the Commission will calculate the Utilization Rate for all High-Volume For-Hire Services for the prior calendar year. If the Utilization Rate for all High-Volume for Hire Services for the prior calendar year is at least 53%, the applied Utilization Rate will be 58% for the following calendar year. If the Utilization Rate for all High-Volume For-Hire Services for the prior calendar year is below 53%, the applied Utilization Rate for all High-Volume For-Hire Services for the following year, effective from the immediately following March 1 until the subsequent March 1, will be the actual Utilization Rate from the previous calendar year.]

§ 5. Section 59D-22 of Title 35 of the Rules of the City of New York is amended by adding a new subdivision (c), to read as follows:

(c) *Driver access to High-Volume For-Hire Service applications.*

(1) *Notice requirement.* A High-Volume For-Hire Service must provide at least 72 hours' notice to any Driver who could otherwise make themselves available to accept dispatches from that High-Volume For-Hire Service on a calendar day if such High-Volume For-Hire Service will restrict that Driver's ability to accept dispatches on that calendar day.

(2) *Access requirement.* A High-Volume For-Hire Service must allow any Driver who has made themselves available to accept dispatches to continue to be available to accept dispatches for at least 16 hours following their initial availability. If a Driver has not been available to accept dispatches for at least eight consecutive hours, the 16-hour access period restarts.

(3) *Exceptions.* A High-Volume For-Hire Service may restrict a Driver's ability to accept dispatches, without 72 hours' notice, for lack of licensing

credentials, violation of TLC rules, and violation of the High-Volume For-Hire Service's rules and policies including misconduct and excessive cancellation or non-acceptance of dispatches.

§59D-22(c)	Fine: $500 per failure to provide notice or failure to allow Driver access	Appearance REQUIRED