

NEW YORK CITY TAXI AND LIMOUSINE COMMISSION

Notice of Public Hearing and Opportunity to Comment on Proposed Rules

Notice is hereby given in accordance with section 1043(b) of the Charter of the City of New York (“Charter”) that the Taxi and Limousine Commission (“TLC”) proposes amended rules governing taxicab agents.

These rules are proposed pursuant to sections 1043 and 2303 of the Charter and section 19-503 of the Administrative Code of the City of New York. These proposed rules were not included in the TLC’s regulatory agenda for Fiscal Year 2009 because the need for such rules was not anticipated at the time the regulatory agenda was published.

A public hearing on these proposed rules will be held by the TLC at its offices at 40 Rector Street, 5th Floor, New York, New York 10006 on February 20, 2009 at 2:30 p.m. Persons wishing to testify at the hearing may notify the TLC in advance, either in writing or by telephone to the TLC’s Office of Legal Affairs at the address and telephone given below. Any request for a sign language interpreter or other form of reasonable accommodation for a disability at the hearing must be submitted to the Office of Legal Affairs in writing, by telephone, or by TTY/TDD no later than February 13, 2009.

The public hearing will not be a meeting of the Commissioners of the Taxi and Limousine Commission and will be chaired by the TLC’s Deputy Commissioner for Legal Affairs. Persons who wish to speak at the hearing will be strictly limited to three minutes of speaking time. Persons who wish to comment on the proposed rules are urged to submit written comments. There is no page limit on written comments.

Written comments in connection with these proposed rules should be submitted to the Office of Legal Affairs and must be received no later than February 16, 2009 to:

Charles R. Fraser
Deputy Commissioner for Legal Affairs/General Counsel
Taxi and Limousine Commission
40 Rector Street, 5th Floor
New York, New York 10006
Telephone: 212-676-1117
Fax: 212-676-1102
TTY/TDD: 212-341-9596
Email: tlcrules@tlc.nyc.gov

Written comments and a summary of all comments received at the hearing will be available for public inspection at that office.

Section 1. It is hereby proposed to amend Title 35 of the Rules of the City of New York by adding a new chapter 13 thereto, to read as follows:

New Material is underlined.

Chapter 13

TAXICAB AGENT RULES

Contents

§13-01	Scope of the Chapter.	4
§13-02	Penalties.	4
§13-03	Definitions Specific to this Chapter	4
§13-04	Licensing-- Requirements	5
§13-05	Licensing--Term	6
§13-06	Licensing--Fees.	6
§13-07	Licensing--Causes for Denial	6
§13-08	Proper Conduct	7
§13-09	Personal Conduct—Unlicensed Activity	8
§13-10	Agent’s Business Premises.	9
§13-11	Vehicle Operation	9
§13-12	Vehicle—Equipment	10
§13-13	Vehicle Equipment—Trip Sheet	11
§13-14	Vehicle Equipment—Taxicab Technology System.	11

§13-01 Scope of the Chapter

- (a) To establish that an individual or Business Entity must be licensed by the Commission to act as an Agent.
- (b) To provide the qualifications, requirements and procedures for getting and maintaining an Agent's License.
- (c) To set forth the penalties for violating these Rules.

§13-02 Penalties

- (a) *Specific Penalties.* If there are specific penalties for violating a Rule, they are shown at the end of the Rule. The penalty section also states whether the violator must attend the Hearing.
- (b) *General Penalty.* If the fine is not paid by the close of business on the date due, the violator's License will be suspended until the fine is paid. Fines are due on the day that the violator is found guilty of the violation.

§13-03 Definitions Specific to this Chapter

- (a) *Agent* is an individual or Business Entity that has been Licensed by the Commission to operate or facilitate the operation of one or more Taxicabs on behalf of the Taxicab owner.
- (b) *Business Entity.* In this Chapter, a Business Entity may be a sole proprietorship, a corporation, or a partnership.
- (c) *Limited Business Entity Person* shall mean all Business Entity Persons except for corporate shareholders holding less than ten percent (10%) of the stock of the corporation.
- (d) *Merchant.* An individual or Business Entity who holds a Commission License and who has agreed to do the following:
 - (1) Facilitate contracts between Taxicab Technology Service Providers and Commission-approved banks, and
 - (2) Contract to provide credit/debit card services for in-cab payment of Taxicab fares.
- (e) *Taxicab Technology Service Provider ("T-PEP Provider")* means a vendor who has contracted with the Commission to install and maintain the Taxicab Technology System in Taxicabs.

- (f) Taxicab Technology System (“T-PEP”) means the hardware and software that provides the following four core services:
- (1) Credit, debit and prepaid card payment
 - (2) Text messaging
 - (3) Trip data collection and transmission
 - (4) Data transmission with the passenger information monitor

§13-04 Licensing – Requirements

- (a) License Required. An individual or Business Entity must first obtain a License from the Commission before acting as an Agent.

<u>§13-04(a)</u>	<u>Fine: \$500-\$1,000</u>	<u>Appearance REQUIRED</u>
------------------	----------------------------	----------------------------

- (b) Who May File an Application. An application or renewal application for a Business Entity Agent’s License may only be submitted by the following:
- (1) An individual
 - (2) The Proprietor, on behalf of a sole proprietorship
 - (3) A general partner on behalf of a partnership
 - (4) An officer or director on behalf of a corporation
- (c) Certification. The application must contain a sworn and notarized statement by the person filing the application that the information contained in the application is true.
- (d) Fingerprinting and Background Investigations.
- (1) For the purpose of securing criminal history records from the New York State Division of Criminal Justice Services, an individual Applicant and all Limited Business Entity Persons of a Business Entity Applicant must be fingerprinted.
 - (2) The Applicant must pay any processing fee required by the New York State Division of Criminal Justice Services.
- (e) Bond.
- (1) An Applicant for an original or renewal Agent’s License must deposit a fifty thousand (\$50,000) dollar bond payable to the City of New York with

the Commission. The bond must be provided by one or more sureties approved by the Commission.

- (2) The bond must guarantee that the Applicant or Licensee will comply with the provisions of the Administrative Code, observe all applicable rules or regulations of the Commission, pay all fines imposed by the Commission, and pay all judgments or settlements arising from any action connected with the Agent's License.
 - (3) The Agent is immediately liable for any fine or judgment as soon as the amount is determined or, in case of an appeal, when the final determination is issued.
 - (4) The bond must remain in effect for one year following the expiration or revocation of the License.
- (f) Identify Business Entity Persons. Upon application for a License or License renewal or upon request, an Agent must provide the Commission with the identity of all of the Agent's Business Entity Persons.

§13-05 Licensing – Term

- (a) Maximum One-Year Term. The term of an Agent's License may be up to one year, but will expire on December 31 of the year in which it is issued or renewed, unless earlier suspended or revoked by the Commission.
- (b) No Longer Meets Requirements. If at any time during the term of the License, the Commission learns that the Agent no longer meets the requirements for an Agent's License, the Commission may deny any renewal application, or suspend or revoke the current License, after appropriate notice and hearing.

§13-06 Licensing – Fees

- (a) Annual Fee. The fee for an Agent's License will be five hundred dollars (\$500) annually.
- (b) When Fee is Paid. The fee for an original or renewal License must be paid at the time the application is filed.
- (c) Shorter Term. If a License is granted for a period of six months or less, the fee will be two hundred and fifty dollars (\$250).

§13-07 Licensing – Causes for Denial

- (a) Material Misstatement. The Commission will deny any application if the Applicant makes a material misstatement or misrepresentation on the application.

- (b) Unlawful Acts. The Commission will deny any application if the Applicant commits a fraudulent or unlawful act while acting as an Agent.
- (c) Criminal Conviction. The Commission will deny an application, including a renewal application, if the individual Applicant, or any Limited Business Entity Person of the Applicant is convicted of a crime under Article 23-A of the Correction Law that would provide a basis for suspension or revocation of the License.
- (d) Medallion-Owner Agent Violates Rules. The Commission will deny an application for an Agent’s License if the Applicant owns a Medallion and has violated any Commission Rule where the penalty for that violation is revocation of the License.
- (e) Violation of the Administrative Code. The Commission will deny an application if the Applicant has violated any provision of §19-530 of the Administrative Code or any applicable rule of the Commission.

§13-08 Proper Conduct

- (a) An Agent must not make a material misrepresentation or omission or commit a fraudulent or unlawful act while acting as an Agent, whether Validly Licensed or not. Such acts will include but not be limited to any of the following:
 - (1) Presenting a Taxicab for inspection with a vehicle identification number (“VIN”) other than the one under which the vehicle is licensed by the Commission.
 - (2) Operating a Taxicab with a vehicle identification number that has been removed and reattached, or that is different from the VIN shown on the Taxicab License.
 - (3) Presenting a document to the Commission that falsely states that the insurance requirements for the Taxicab have been met.
 - (4) Bribing or attempting to bribe any officer or employee of the Commission.

§13-08 (a)(1) – (4)	Fine: \$1,000-\$10,000 and/or revocation	Appearance REQUIRED
---------------------	--	---------------------

- (b) Fraud, Theft. While performing the duties and responsibilities of a Licensee, a Licensee must not commit or attempt to commit any act of fraud, misrepresentation or theft.

§13-08(b)	Fine: \$1,000-\$5,000	Appearance REQUIRED
-----------	-----------------------	---------------------

- (c) Willful Acts of Omission. While performing the duties and responsibilities of a Licensee, a Licensee must not commit or attempt to commit any willful act of omission that is against the best interests of the public.

§13-08(c)	Fine: \$1,000-\$5,000	Appearance REQUIRED
-----------	-----------------------	---------------------

- (d) Willful Acts of Commission. While performing the duties and responsibilities of a Licensee, a Licensee must not commit or attempt to commit any act that is against the best interests of the public.

§13-08(d)	Fine: \$1,000-\$5,000	Appearance REQUIRED
-----------	-----------------------	---------------------

- (e) Failure to Cooperate with the Commission.

- (1) A Licensee must truthfully answer all questions and comply with all communications, directives, and summonses issued by the Commission, its representatives or the New York City Department of Investigation.
- (2) Upon request of the Commission, a Licensee must make the Agent’s business premises, books and records available for inspection.

§13-08(e)	Fine: \$500-\$1,500	Appearance REQUIRED
-----------	---------------------	---------------------

- (f) Threats, Harassment, Abuse. While performing the duties and responsibilities of a Licensee, a Licensee must not threaten, harass, or abuse any person.

§13-08(f)	Fine: \$100-\$350 and/or suspension up to 30 days	Appearance REQUIRED
-----------	---	---------------------

- (g) Use or Threat of Physical Force. While performing the duties and responsibilities of a Licensee or any act in connection with those duties, a Licensee must not use or attempt to use any physical force against a person.

§13-08(g)	Fine: \$100-\$350 and/or suspension up to 30 days	Appearance REQUIRED
-----------	---	---------------------

- (h) Death or Incompetency of Taxicab Owner. An Agent who becomes aware of the death or incompetency of an owner of an interest in a Taxicab Medallion shall promptly inform the Commission.

§13-08(h)	Fine: \$100	Appearance NOT REQUIRED
-----------	-------------	-------------------------

§13-09 Personal Conduct – Unlicensed Activity

- (a) An Agent must not dispatch a Taxicab that is unlicensed.

§13-09(a)	Fine: \$500-\$2,000 and/or suspension up to 30 days	Appearance REQUIRED
-----------	---	---------------------

- (b) An Agent must not dispatch a Taxicab that does not have a current Medallion affixed to the Taxicab.

§13-09(b)	Fine: \$500-\$2,000 and/or suspension up to 30 days	Appearance REQUIRED
-----------	---	---------------------

§13-10 Agent’s Business Premises

An Agent who operates one or more Taxicabs that are returned at the end of a shift must maintain business premises in an appropriately-zoned location. The location must allow or provide for, and the Agent must provide or maintain, all of the following:

- (a) Sufficient off-street parking space at or near the business premises to store the lesser of:
 - (1) Twenty-five (25) vehicles, or
 - (2) Fifty percent (50%) of the Taxicabs leased on a daily or shift basis, plus five percent (5%) of the Taxicabs leased for longer than one day
- (b) Sufficient office space to conduct business and keep all records required by the Commission, including trip sheets and Driver records.
- (c) Regular business hours, including the hours of 9:00 a.m. through 5:00 p.m. every weekday other than legal holidays.
- (d) A business address and telephone number on file with the Commission.

§13-10(a)-(d)	Fine: \$500-\$1,000 and suspension until compliance	Appearance REQUIRED
---------------	---	---------------------

§13-11 Vehicle Operation

- (a) Provide a List of Taxicabs Being Operated by Agent. An Agent must provide the Commission with a list of all Taxicabs operated by the Agent, annually and upon request.

§13-11(a)	Fine: \$250 and suspension until compliance	Appearance REQUIRED
-----------	---	---------------------

- (b) Double Shift Requirement. An Agent must ensure that Fleet and Minifleet Taxicabs are operated for a minimum of two shifts of nine hours each day including weekends and holidays. This double shift requirement is established in §8-20(a)(1) of The Taxicab Owners Chapter.
- (c) Safety. An Agent must not dispatch a Taxicab unless all equipment, including brakes, tires, lights, signals and trouble lights are in good working order. The Taxicab must meet all requirements and specifications of the New York State Vehicle and Traffic Law and Chapter 17 of these Rules.

§13-11(c)	Fine: \$100	Appearance NOT Required
-----------	-------------	-------------------------

(d) Drivers.

(1) An Agent must not authorize or allow a Driver to operate a Taxicab unless either:

(i) The Driver’s name has been entered on the Rate Card by the Commission, and the Driver’s Vehicle lease (if any) has not expired, or

(ii) “Unspecified Drivers” has been entered on the rate card by the Commission.

§13-11(d)(1)(i)-(ii)	Fine: \$350	Appearance NOT Required
----------------------	-------------	-------------------------

(2) An Agent must not authorize or allow a Driver to operate a Taxicab unless the Driver possesses a Valid Driver’s license and a Valid Taxicab Driver’s License.

§13-11(d)(2)	\$500-\$2,000 and/or suspension up to 30 days	Appearance REQUIRED
--------------	---	---------------------

§13-12 Vehicle – Equipment

(a) Partition. An Agent must not dispatch a Taxicab unless it is equipped with a partition that isolates the Driver from the rear seat passengers in accordance with the specifications in §17-09 of the Taximeter Chapter unless the Taxicab is exempt from the partition requirements under the general provisions of §8-34(b) of the Taxicab Owners Chapter.

(b) Distress Signal. An Agent must not dispatch a Taxicab that is not equipped with a help or distress signaling light system, as required in §8-33(e) and in accordance with specifications established in §17-10.

(c) Taximeter.

(1) An Agent must not dispatch a Taxicab unless it is equipped with a Taximeter as required in §8-36 and in accordance with the specifications established in §17-08.

(2) An Agent must not tamper with, alter, repair or attempt to repair any of the following:

(i) A Taximeter

- (ii) Any Seal affixed to the taximeter by a licensed Taximeter repair shop or other authorized facility
 - (iii) The Taxicab Technology System
 - (iv) Any cable mechanism or electrical wiring of a Taximeter or Taxicab Technology System
- (3) An Agent must not make any change in a vehicle’s mechanism or its tires that would affect the operation of the Taximeter or of the Taxicab Technology System.

§13-12(c)(1)-(2)	Fine: \$250-\$1,500 and/or suspension up to 30 days	Appearance REQUIRED
------------------	---	---------------------

§13-13 Vehicle Equipment – Trip Sheet

An Agent must not dispatch a Taxicab unless all of the following are present in the Taxicab:

- (a) An electronic or hand written trip record (also known as a “trip sheet”) or an operable Taxicab Technology System.
- (b) The Taxicab Driver’s License.
- (c) The Rate Card, in a frame next to the frame for the Taxicab Driver’s License.
- (d) An insurance card or copy, unless the owner is self-insured and has noted this fact on the Rate Card.
- (e) All notices required to be posted in the Taxicab.

§13-14 Vehicle Equipment – Taxicab Technology System

- (a) Equip Taxicabs with T-PEP. An Agent must ensure that each of Agent’s Taxicabs is equipped with the Taxicab Technology System by the compliance date established in §8-39(b), unless exempt from the requirement under §8-39(c). The T-PEP must comply with the specifications established in §17-14.

§13-14(a)	Fine: \$1,000 and suspension until compliance	Appearance REQUIRED
-----------	---	---------------------

- (b) Good Working Order. For any Taxicab that is required to be equipped with the Taxicab Technology System, the equipment must be in good working order at all times and each of the four core services must be functioning at all times.

§13-14(b)	Fine: \$250 and suspension until compliance	Appearance REQUIRED
-----------	---	---------------------

(c) Malfunction or Failure to Operate.

- (1) If the T-PEP malfunctions or fails to operate, the Agent must file an incident report with the authorized T-PEP Provider within two hours following the discovery of the malfunction or as soon as the Agent reasonably should have known of such malfunction.
- (2) If the Driver or Taxicab owner previously filed an incident report, the Agent will not be required to file a separate incident report. The Agent must verify that the report has been filed by obtaining the incident report number from the Driver, owner or T-PEP Provider.
- (3) Upon instruction from the owner the Agent must meet the appointment for repair scheduled by the T-PEP Provider following the incident report.

§13-14(c)(1)-(3)	Fine: \$250 and suspension until compliance	Appearance REQUIRED
------------------	---	---------------------

(d) 48-Hour Repair Deadline. An Agent must not allow a Taxicab in which any of the four core services of the Taxicab Technology System (or any material feature of a core service) is not functioning to be operated more than 48 hours following the timely filing of an incident report.

§13-14(d)	Fine: \$250 and suspension until compliance	Appearance REQUIRED
-----------	---	---------------------

(e) Inspection upon Multiple T-PEP Malfunctions. An Agent for any Taxicab requiring six or more repairs of a vehicle’s Taxicab Technology System in any 30-day period must promptly take that vehicle for inspection or schedule an inspection with the Commission’s Safety and Emissions Facility. This requirement will not apply to the Agent if compliance is made by the owner or Driver of the vehicle.

§13-14(e)	Fine: \$250	Appearance NOT Required
-----------	-------------	-------------------------

(f) Merchant’s 5% Fee. A Merchant who is an Agent may charge a Driver a maximum mark-up of five percent (5%) of the total credit/debit card charges incurred during the Driver’s shift.

§13-14(f)	<p>Fine:</p> <p>First violation: \$200.</p> <p>Second violation: \$300.</p> <p>Third violation: \$500.</p> <p>In addition to the penalty payable to the Commission, the administrative law judge may order the Agent to pay restitution to the Driver, equal to the excess amount that was charged to the Driver.</p>	Appearance REQUIRED
-----------	---	---------------------

Statement of Basis and Purpose of Rules

These rules are proposed pursuant to sections 1043 and 2303 of the Charter and section 19-503 of the Administrative Code of the City of New York. The rules are part of a project undertaken by the Taxi and Limousine Commission (“TLC”) to revise its existing rule book. The first phase of this project consists of reorganizing and redrafting TLC’s rules, to enhance their clarity and accessibility without substantive change. Accordingly, these rules are not intended to make any changes to TLC’s current policies, procedures or operations.

During this first phase of the rules revision project, all of TLC’s existing rules will be redrafted, then posted on a chapter-by-chapter basis on the TLC Web site for review and discussion by interested members of the public. Each chapter will be revised based on that discussion, then published for public comment and public hearing pursuant to the City Administrative Procedure Act (CAPA). Because this phase of the rules revision is intended to involve no substantive changes to the rules, and as announced at the Commission meeting held on August 7, 2008, public hearings will be held separately from monthly stated Commission meetings.

When this process has been completed for all TLC rules, the complete set of rules will be presented to the Commission for promulgation simultaneously with repeal of the current set of TLC rules. The revised rules will replace the existing rules compiled in chapter 35 of the Rules of the City of New York. It is anticipated that the promulgation of the revised rules and repeal of the current rules will occur in 2009.

After the first phase of its rules revision is completed, TLC will move to the second phase, which will involve the assessment of its rules for more substantive changes.

The rules proposed here are as follows:

Current Rule Chapters revised in this rule-making	Proposed Rule Chapters
Chapter 12, Taxicab Agents	Chapter 13, Taxicab Agent Rules

The proposed rules do make one change to clarify a contradiction in the existing rule which limits an agent to being, in form, an individual, partnership, or corporation and a reference elsewhere in that rule to “other type of business entity”. The new chapter makes it clear that an agent may be only an individual, partnership, or corporation, consistent with TLC practice.