

## 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 amending its rules to limit the amount of time For-Hire Vehicles dispatched by High-Volume For-Hire Service Providers spend cruising in the Congestion Zone.

**When and where is the Hearing?** The Commission will hold a public hearing on the proposed rule. The public hearing will take place at 12:00 p.m. on July 23, 2019. The hearing will be in the hearing room at 33 Beaver Street – 19<sup>th</sup> Floor, New York, NY 10004.

The hearing room 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 – 22<sup>nd</sup> 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](mailto:tlcrules@tlc.nyc.gov).
- **Website.** You can submit comments to the Taxi and Limousine Commission through the NYC rules Web site at [www.nyc.gov/nycrules](http://www.nyc.gov/nycrules).
- **By Speaking at the Hearing.** Anyone who wants to comment on the proposed rule at the public hearing must sign up to speak. You can sign up before the hearing by calling 212-676-1135. You can also sign up in the hearing room before the hearing begins. You can speak for up to three minutes.

**Is there a deadline to submit written comments?** Yes, you must submit written comments by July 22, 2019.

**What if I 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. Advance notice is requested to allow sufficient time to arrange the accommodation. Please tell us by July 19, 2019.

**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 laws 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 RULES**

On August 14, 2018, Mayor de Blasio signed Local Law 147 of 2018, freezing new For-Hire Vehicle (FHV) licenses for a year, and instructing the New York City Taxi and Limousine Commission (TLC) and Department of Transportation (DOT) to study the impact of the FHV sector on traffic congestion. Specifically, Local Law 147 of 2018 enacted section 19-550 of the New York City Administrative Code, which authorizes the TLC to establish vehicle utilization standards, or as they are referred to in the proposed rules “caps on cruising,” for FHVs dispatched by the High-Volume For-Hire Services (HVs) and mandates that the TLC periodically review the number of FHV licenses. Further, based on such review, Local Law 147 authorizes the TLC to regulate the number of FHV licenses it issues. Following completion of the study mandated by Local Law 147, TLC proposes to:

- Decrease the percentage of time that FHVs dispatched by HVs spend cruising (driving or waiting without a passenger) in Manhattan south of 96<sup>th</sup> Street by capping it at 31% during the most congested times of day, and
- Review and determine, every six months, the total number of new FHV licenses the TLC will issue.

### **Traffic Congestion**

Traffic congestion in New York City has grown steadily worse since 2010, with travel speeds in Midtown Manhattan dropping to 4.3 mph during November and December of 2018. While the increase in traffic congestion has many sources, including growth in population, employment, commerce, and construction activity, traffic counts collected by the DOT in the fall of 2018 found that FHVs, the overwhelming majority of which are dispatched by HVs, make up 30% of peak period vehicle volumes in Manhattan south of 96<sup>th</sup> street (the “Congestion Zone”).

To address this cause of traffic congestion, the City Council passed Local Law 147, which paused the issuance of new FHV licenses for a year and mandated that the TLC and DOT study the consequences of certain changes in traffic policy in terms of congestion in the Congestion Zone, driver pay, passenger fares, passenger wait times, and shifts to other modes of transportation.

TLC and DOT retained consultants to assist with the study mandated by Local Law 147, which can be found at [https://www1.nyc.gov/assets/tlc/downloads/pdf/fhv\\_congestion\\_study\\_report.pdf](https://www1.nyc.gov/assets/tlc/downloads/pdf/fhv_congestion_study_report.pdf). As noted in the study, of the three standalone policies the Local Law tasked the City with studying, the cap on cruising is the only policy that the modeling predicts will result in significant reductions in FHV Vehicle Hours Traveled in the Congestion Zone without negatively impacting driver pay, passenger fares, or outer borough passenger wait times.

### **Cap on Cruising**

Following the study’s recommendations, the proposed rules would require HVs to keep their company-wide Manhattan core cruising time below a certain percentage of their total vehicle

hours in the Manhattan core. Cruising is the time drivers spend between trips, which can be divided into two segments: (1) time when drivers are waiting to receive their next trip and (2) time when they are driving to pick up a passenger after receiving a trip. For most drivers, both segments are time when the driver is working but not earning money.

Currently, drivers spend 41% of their time in Congestion Zone cruising, which results in an average of 13 minutes per trip. Less than half of that time is time the driver spends traveling to pick up a passenger, which is about 5.5 minutes per trip on average in the core. This leaves roughly 8 minutes a driver spends waiting for the next trip, either parked, double-parked, or driving to an area where the driver expects to get another trip. Because of high demand for on-street parking in the Manhattan core, most drivers are either double-parked or driving, both of which contribute to congestion.

Placing a cap on cruising in the Congestion Zone will result in a substantial reduction of Vehicle Hours Traveled there. To achieve this result, the proposed rules:

- Beginning February 1, 2020, require HVs to cap cruising at 36% from six a.m. to eleven p.m. on Monday through Friday and from eight a.m. to eleven p.m. on Saturday and Sunday.
- Beginning August 1, 2020, require HVs to cap cruising at 31% from six a.m. to eleven p.m. on Monday through Friday and from eight a.m. to eleven p.m. on Saturday and Sunday.
- Establish monetary and non-monetary penalties for non-compliance with the caps on cruising.
- Eliminate the prohibitions on black car bases dispatching to vehicles affiliated with livery bases and livery bases dispatching to vehicles affiliated with black car bases to provide HVs more options to increase their dispatching efficiency.
- Require HVs, in addition to the FHV bases through which they dispatch trips, to submit data and information to TLC regarding vehicle location and log-on/log-off information

The cap on cruising will require HV companies to better manage the supply of vehicles available to meet passenger demand, so that drivers will not drive around empty as often as they do today

### **New License Issuance**

Local Law 147 requires the TLC, in addition to conducting a congestion study, to periodically review the number of licenses it issues. The local law further allows the TLC to limit the number of licenses it issues based on such review. The proposed rules codify that portion of the Local Law, requiring the TLC to review the current number of FHV licenses every six months and determine the number licenses it will issue over the next six months based on such review.

Since FHV service has not been reduced so far under the current vehicle license pause, TLC will continue the license pause established by Local Law 147 until it conducts its first review of the number of FHV licenses. This will allow the TLC to monitor the impact of the cap on cruising while it reviews and determines the number of new vehicle licenses to issue.

In order to provide a degree of flexibility consistent with the city's aggressive accessibility and greenhouse gas reduction goals, TLC will continue to except wheelchair accessible vehicles from

the licensing pause, as provided in Local Law 147, and add an exception for battery electric vehicles. These proposed rules also extend the exception to the license pause provided in Local Law 147 for TLC-licensed drivers who entered into long-term, lease-to-own agreements for a vehicle prior to the effective date of Local Law 147.

The Commission's authority for these rules is found in sections 1043 and 2303 of the New York City Charter and section 19-550 of the New York City Administrative Code.

New material is underlined.

[Deleted material is in brackets]

Section 1. Section 51-03 of Title 35 of the Rules of the City of New York is amended by adding new definitions of "Available Vehicle," "Congestion Zone," "Cruising," and "Shared Ride," in alphabetical order, to read as follows:

**Available Vehicle** means a For-Hire Vehicle that is available to accept dispatched trips from a High-Volume For-Hire Service.

**Congestion Zone** is the geographic area of Manhattan south of and excluding 96<sup>th</sup> Street.

**Cruising** is the time a For-Hire Vehicle spends available to receive dispatches from a Base or High-Volume For-Hire Service while not transporting a passenger. Cruising includes the time a For-Hire Vehicle spends driving to pick up a passenger on a trip dispatched by a Base or a High-Volume For-Hire Service.

Section 2. Paragraph (a) of section 59A-06 of Title 35 of the Rules of the City of New York is amended to read as follows:

(a) *New License*. The term of a new For-Hire Vehicle License is two years.

(1) *New License Issuance*. One year following the effective date of this rule, and every six months thereafter, the Commission will review the number of For-Hire Vehicle Licenses, pursuant to section 19-550(b)(2) of the Administrative Code of the City of New York and determine the number of For-Hire Vehicle Licenses to issue in the six (6) months following such review. In reviewing the number of Licenses to issue in the next six months, the Commission will review congestion levels, driver pay, License attrition rates, outer borough service, and any other information it deems relevant to determine the number of Licenses to issue. The results of such review, and the number of new For-Hire Vehicle Licenses the Commission will issue, will be posted on the Commission's website. The Commission will not issue new For-Hire Vehicle Licenses until such time as it completes its first review of the number of For-Hire Vehicle Licenses pursuant to this section.

(2) Exceptions. Prior to the results of the first review performed pursuant to paragraph (1) of this subdivision, the Commission will continue to issue new Licenses to:

- (i) Wheelchair accessible vehicles,
- (ii) Battery electric vehicles, and
- (iii) An applicant who possesses a TLC Driver’s License, provides written proof that the applicant entered into a lease for the use of a licensed for-hire vehicle that contains a conditional purchase agreement for the vehicle prior to August 14, 2018, and demonstrates that the term of such lease is no less than two (2) years.

Section 3. Subdivision (d) of section 59B-17 of Title 35 of the Rules of the City of New York is amended to read as follows:

(d) *Must Dispatch Own Vehicles.* A Base Owner must not dispatch a Vehicle that is not affiliated with the Base Owner’s Base[, ] unless

[(1)

- (i) The Vehicle is affiliated with (i) a Livery Base if the dispatching Base is a Livery Base or (ii) either a Black Car or Luxury Limousine Base if the dispatching Base is a Black Car or Luxury Limousine Base, and
- (ii) The] the Base Owner provides the customer with the name and license number of both the affiliated Base and the dispatching Base (clearly identifying which Base is the affiliated Base and which Base is the dispatching Base) in all communications with the customer and any materials or receipts provided to the customer[; or

(2) The Base is dispatching an Accessible Vehicle affiliated with a For-Hire Base and the Base Owner provides the customer with the name and license number of both the affiliated Base and the dispatching Base (clearly identifying which Base is the affiliated Base and which Base is the dispatching Base) in all communications with the customer and any materials or receipts provided to the customer].

§59B-17(d)	Fine: \$150	Appearance NOT REQUIRED
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Section 4. Subdivision (a) of section 59D-14 of Title 35 of the Rules of the City of New York is amended to read as follows:

(a) *Required Information.* A High-Volume For-Hire Service must collect and transmit to the Commission, in a format, layout, procedure, and frequency prescribed by the Commission, the following records:

(1) With respect to all trips the High-Volume For-Hire Service dispatches through a Base:

- (i) The date, the time, and the location of the Passenger pickup and drop-off
  - (ii) The Driver's TLC Driver License number
  - (iii) The dispatched Vehicle's License number
  - (iv) The TLC License number of the For-Hire Base that dispatched the Vehicle
  - (v) The TLC License number of the For-Hire Base affiliated to the dispatched Vehicle
  - (vi) The total number of passengers picked up and dropped off
  - (vii) The total trip mileage
  - (viii) The date and time the Passenger requested the trip
  - (ix) The itemized fare for the trip including the amount of the fare, any toll, surcharge, commission rate, other deduction and any gratuity and a breakdown of the amount such passenger paid for the trip
  - (x) The payment the Driver received for the trip or the Driver's hourly paid rate
  - (xi) If the trip enters the Congestion Zone but the pick-up did not occur in the Congestion Zone, the date, time, and location (latitude, longitude, and human-readable street address) of the point at which the vehicle entered the Congestion Zone and, if applicable, the date, time, and location (latitude, longitude, and human-readable street address) of the point at which the vehicle exited the Congestion Zone, and
  - (xii) An indicator as to whether the trip was administered as part of the MTA's Access-A-Ride program.
- (2) [The total amount of] For each time a Vehicle makes itself available to be dispatched by the High-Volume For-Hire Service[, and]:
- (i) The Vehicle License number
  - (ii) The TLC Driver License number of the Driver operating the Vehicle
  - (iii) The date and time at which the Vehicle became available to accept dispatches from the High-Volume For-Hire Service

- (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
- (v) The date and time at which the Vehicle became unavailable to accept dispatches from the High-Volume For-Hire Service
- (vi) If the Vehicle enters the Congestion Zone while available to accept dispatches from the High-Volume For-Hire Service, the date, time, and location (latitude, longitude, and human-readable street address) of the point at which the Vehicle entered the Congestion Zone and, if applicable, the date, time, and location (latitude, longitude, and human-readable street address) of the point at which the Vehicle exited the Congestion Zone,
- (3) The amount of time spent transporting passengers each day by each Vehicle that has made itself available to be dispatched by the High-Volume For-Hire Service, and the amount of time spent by such Vehicles between trips but not on the way to the passenger,
- (4) The amount of time each Available Vehicle spends each day in the Congestion Zone, and
- (5) The amount of time each Available Vehicle spends each day Cruising in the Congestion Zone.

Section 5. Chapter 59 of Title 35 of the Rules of the City of New York is amended by adding a new section 59D-21 to read as follows:

**§59D-21 Operations – Restrictions on Cruising Time in the Manhattan Core**

- (a) Cruising in the Congestion Zone. A High-Volume For-Hire Service must limit the total amount of time Available Vehicles spend Cruising while in the Congestion Zone in the following manner:
  - (1) Beginning February 1, 2020, the percentage of time all Available Vehicles spend Cruising while in the Congestion Zone between the hours of six a.m. and eleven p.m. on Monday through Friday and between the hours of eight a.m. and eleven p.m. on Saturday and Sunday cannot exceed thirty-six percent (36%).
  - (2) Beginning August 1, 2020, the percentage of time all Available Vehicles spend Cruising while in the Congestion Zone between the hours of six a.m. and eleven p.m. on Monday through Friday and between the hours of eight a.m. and eleven p.m. on Saturday and Sunday cannot exceed thirty-one percent (31%).

§59D-21(a)	Fine: \$350 for each 100 hours by which the High-Volume For-Hire Service exceeds the limit on the percentage of time	Appearance REQUIRED
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	<p><u>Available Vehicles can spend Cruising while in the Congestion Zone in the previous calendar month.</u></p> <p><u>Example: If Available Vehicles spent 2,500,000 hours in the Congestion Zone over the course of March 2020 but spent 925,000 of those hours Cruising, the High-Volume For-Hire Service will have exceeded the 36% limitation on Cruising by 25,000 hours and be subject to a \$87,500 fine.</u></p> <p><u>If a High-Volume For-Hire Service exceeds the Cruising limits outlined above by over 10%, the Commission may seek suspension of up to 30 days or revocation.</u></p>	
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- (b) Calculating Cruising Time: Cruising time will be calculated as all the time a High-Volume For-Hire Service's Available Vehicles spend in the Congestion Zone without a passenger. When a Vehicle is available to accept dispatches from more than one High-Volume For-Hire Service, its Cruising time will be assigned proportionately based on the aggregate trip volumes of each High-Volume For-Hire Service from which the Vehicle is available to accept dispatches. For example, if during a compliance period a Vehicle spends 10 hours Cruising in the Congestion Zone while available to accept dispatches from Company A and Company B, and during that compliance period Company A dispatches 800,000 trips and Company B dispatches 200,000 trips, 8 hours of the Vehicle's Cruising time will be assigned to Company A and 2 hours of the Vehicle's Cruising time will be assigned to Company B.
- (c) Evaluation by the Commission. No less than annually, the Commission will review compliance levels, service levels outside the Congestion Zone, and any other information it deems relevant to determine if adjustments need to be made to the limits on Cruising set forth in subdivision (a) of this section.

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS  
253 BROADWAY, 10<sup>th</sup> FLOOR  
NEW YORK, NY 10007  
212-788-1400**

**CERTIFICATION / ANALYSIS  
PURSUANT TO CHARTER SECTION 1043(d)**

**RULE TITLE: Limitations on Cruising and Number of For-Hire Vehicle Licenses for  
Certain For-Hire Vehicles**

**REFERENCE NUMBER: TLC-109**

**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 are inappropriate for the types of violations arising from these rules.

/s/ Francisco X. Navarro  
Mayor's Office of Operations

June 13, 2019  
Date

**NEW YORK CITY LAW DEPARTMENT  
DIVISION OF LEGAL COUNSEL  
100 CHURCH STREET  
NEW YORK, NY 10007  
212-356-4028**

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

**RULE TITLE: Limitations on Cruising and Number of For-Hire Vehicle Licenses for  
Certain For-Hire Vehicles**

**REFERENCE NUMBER: 2019 RG 040**

**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: June 13, 2019