

NEW YORK CITY TAXI AND LIMOUSINE COMMISSION RESOLUTION

APPROVING THE TAXICAB LEASING PILOT

October 15, 2015, as amended by the December 3, 2015 Amendment

The New York City Taxi and Limousine Commission (“Commission” or “TLC”) hereby approves by resolution a pilot program (“Pilot Program” or “Taxicab Leasing Pilot”), pursuant to section 2303(b)(9) of the New York City Charter and section 52-27 of the Commission’s rules, permitting flexibility in the leasing of Taxicabs.

Program Goals. To allow for increased flexibility in arrangements between licensees who Lease Taxicabs and Taxicab Drivers, and thereby increased service levels and income, while maintaining protections against driver overcharges.

Lessor Historical Practice and Pilot Overview. In early Spring 2015, TLC staff conducted outreach with Taxicab Drivers as part of the biennial review of fares and lease caps required under TLC rule 52-04(b). One common complaint heard from Drivers was the lost fare opportunities resulting from lessors requiring the morning-to-evening shift change to occur at 5 o’clock during the high-passenger-demand evening rush hours. The issue of Taxicab unavailability during the evening rush hours was also the subject of a tech and data event hosted by the TLC, Google and NYU’s Rudin Center for Transportation in April 2015. Results from this event support Driver complaints that they are missing out on fare opportunities during the evening rush hours. This loss of fare income is magnified by the \$1.00 evening surcharge which begins at 4:00 P.M. For the majority of morning Drivers, the surcharge is wholly unavailable because these Drivers must end their shifts early to ensure they avoid late fees by returning to their lessor’s facility in evening rush hour traffic no later than 5:00 P.M. Similarly, evening Drivers cannot benefit from the evening surcharge while traveling from their lessor’s facility to their first pick-up. Other Driver issues TLC identified include the perceived inflexibility of leases currently offered by lessors as well as the stress associated with starting shifts “in the red” having paid a set lease price at the beginning of shifts.

TLC rules require that lessors lease Taxicabs through shifts of “12 consecutive hours” and thereby prohibit leases for shorter periods of time.¹ Additionally, lessors state the Lease Cap rules, which specify morning and evening maximum lease prices that may be charged to Drivers, make it difficult for lessors to change their operations and offer shifts during the hours Drivers most want to work.

To permit lessors to offer Taxicabs for shorter durations of time, lessors participating in the Pilot Program (“Participants”) will be exempt from the 12-hour requirement. In addition to traditional 12-hour leases governed by the Lease Cap rules, Participants may lease Taxicabs under a “Fare Share Lease” model whereby a Taxicab is leased for a set percentage of the farebox revenue or, alternatively, Participants may lease under Participant-specific shift times and caps approved by TLC. It is hoped that by offering these new and flexible leases Participants will be able to lease out more Taxicabs during

¹ TLC rule 58-21(i)(1)(ii)

those times with highest passenger demand. Not only should this improve Drivers' farebox revenue, but this pilot may also increase the number of Taxicabs available to passengers during those times when they need them most. This Pilot will have no meaningful financial impact on the TLC or the City.

Participant Shift Change Plan. Prior to receiving approval to participate in the Pilot Program, each prospective Participant must provide TLC with a Shift Change Plan through which the prospective Participant will offer shift change times outside the 4:00 p.m. to 8:00 p.m. hours. If approved, TLC will monitor actual lease times and will ensure each Participant uses best efforts to implement his or her Shift Change Plan. Through this additional requirement, TLC will test if offering shift change times outside of the 4:00 p.m. to 8:00 p.m. hours has the following impacts: increased Taxicab availability during the evening rush hours; increased Driver earning potential resulting from the removal of lessor operational barriers preventing Drivers from working during high-demand periods; and increased Driver earning potential resulting from a decrease in time currently spent in traffic prior to and following the evening shift change.

Fare Share Leases. By sharing in farebox revenue, Participants can offer Taxicabs to their Drivers without the risk Drivers will be unable to complete enough trips to cover the lease paid at the beginning of the shift. Not only has the low-risk leasing model been successful in other TLC-regulated industries at attracting Drivers, it is also hoped the shared interest in maximizing farebox revenue created by this arrangement could lead to more collaboration between Drivers and Participants to maximize the number of Taxicabs in service at peak demand times.

Participants leasing under the Fare Share Model can retain no more than 35% of the farebox revenue.² This percentage represents a cap and, as such, Participants may retain a smaller percentage to further attract Drivers. Participants may offer these leases for any duration of time up to 12 hours. Leases entered into under this model must state the percentage the Participant will withhold as well as the time by which the Driver must return the Taxicab.

Participant-Specific Leasing Models. Participants may submit proposed shift times and lease caps for approval by TLC ("Participant Leasing Model"). When reviewing proposed Participant Leasing Models, TLC will ensure the sum total of all proposed caps does not exceed the sum total of current applicable daily Lease Cap rates. All approved Participant Leasing Models will be posted on the Pilot Program webpage on TLC's website as well as at the Participant's facility at least 7 days prior to going into effect. This additional leasing option will test whether increasing lessors' flexibility to determine shift times and rates results in an increase in Taxicab availability. This leasing option will also test whether Participants, by adjusting rates and shifts, can encourage Drivers to lease specific shifts or vehicle types that, periodically, struggle to attract Drivers.

² For purposes of this Pilot, "farebox revenue" includes the base fare plus any applicable rush hour or overnight surcharges. The fare from which the percentage is calculated does not include Driver tips, MTA surcharges (50 cents per trip), taxicab improvement fund surcharge (30 cents per trip), tolls, taxicab improvement fund disbursements to drivers (50 cents per trip) or accessible dispatch deadhead payments to drivers.

Monitoring and Evaluation. Increased flexibility must be accompanied by necessary reporting requirements to ensure TLC's Driver Protection Unit can investigate allegations of lessor overcharges and allow TLC to fully evaluate the Pilot Program. Participants will be required to indicate on all Driver leases and receipts if the Taxicab was leased under the standard Lease Cap rules, the Fare Share model or a Participant Leasing Model. Additionally, as discussed above, Participants must indicate on the written lease the percentage withheld for Fare Share leases as well as the time by which the Taxicab must be returned.

Participant Metrics. TLC will post on the Pilot Program webpage fleet metrics including, but not limited to, average vehicle age and facility location for each Participant. TLC will determine if posting this information along with any approved leasing models offered by the Participant will provide information useful to those Drivers considering a move to a different Taxicab lessor.

Pursuant to Chapter 52, Subchapter C of the Commission's rules, this approval is subject to the following terms:

1. Duration

The Pilot Program will commence on the date on which the first Participant leases a Taxicab under the Fare Share leasing model or under a TLC-approved Participant Leasing Model. The Pilot Program will continue for a maximum of 12 consecutive months.

2. Pre-Qualification Conditions

- a. Each Participant in the Pilot Program must enter into a binding Memorandum of Understanding ("MOU") with the Chairperson on behalf of the Commission, which is approved as to form by the New York City Law Department, obligating the Participant to adhere to all requirements of this Resolution and setting forth additional specifications for each requirement. This Resolution contains a summary of the major MOU terms but does not include each and every term.
- b. The MOU will be consistent with this resolution, as amended by the December 3, 2015 Amendment.
- c. The Chairperson may immediately terminate a MOU if, in his or her sole discretion, there is a negative impact to the health or safety of members of the public, Drivers, or other individuals.
- d. The Chairperson may terminate the MOU and/or the Pilot Program because, in his or her sole discretion, Driver income or Taxicab availability is negatively impacted as a result of the Pilot.

3. Means of Public Notice

Notice of opportunity to participate in the Pilot Program will be published in the City Record and on the Commission Web site.

4. Number of Participants

The minimum number of Participants will be one; there will be no maximum number of participants.

5. MOU Submission

- a. The MOU template for the Pilot Program, setting forth the specific terms of participation and instructions for submitting the MOU, will be made available on the TLC website.
- b. The Commission will begin accepting MOUs for participation in the Pilot Program immediately after the MOU template is published on the TLC website.
- c. The Commission will accept MOUs throughout the duration of the Pilot Program.

6. Selection of Pilot Participants

- a. Selection of Participants will be made by the Chairperson.
- b. MOUs will be accepted from licensees who lease Taxicabs.
- c. Applicants must provide the following information:
 - i. The Medallions they operate and the current mode of operation (i.e. daily or weekly) for each;
 - ii. Current shift change times; and
 - iii. A plan to offer a shift change time outside of the 4:00 p.m. to 8:00 p.m. hours.
- d. Criteria for selection of applicants will include responsiveness to the public notice and the performance history of the applicant, including history of violations of Commission rules or other applicable laws and the applicant's record for safety.
- e. The Chairperson will sign and return the MOU to any applicant selected to participate in the Pilot Program.
- f. The number of Participants in the Pilot Program is not limited. The Pilot Program will need at least one Participant in order to effectively test the effectiveness of flexible lease cap regulation.

7. Exemptions

Participants will be exempt from the following TLC rules for purposes of Fare Share leases and Participant Leasing Model leases:

- a. 58-21(c)(1)(i), providing maximum set lease prices that may be charged to Drivers leasing Taxicabs;
- b. 58-21(c)(1)(ii), providing further details for which Drivers are eligible for set weekly rates;

- c. 58-21(c)(2)(i), providing maximum set lease prices that may be charged to Drivers leasing alternative fuel Taxicabs;
- d. 58-21(c)(2)(ii), providing further details for which Drivers are eligible for set weekly rates;
- e. 58-21(c)(5)(xi), providing maximum set credit card processing fees that may be charged to Drivers leasing Taxicabs;
- f. 58-21(i)(1)(ii), mandating that all shifts run for 12 consecutive hours; and
- g. 58-21(i)(2), such that written leases must specify the percentage the Participant will withhold in place of a specific dollar amount.

8. Termination

- a. Participants may continue offering Fare Share and Participant Leasing Model leases unless:
 - i. The Chairperson terminates the MOU because, in his or her sole discretion, there is an imminent threat to the health or safety of members of the public, Drivers, or other individuals;
 - ii. The Chairperson terminates the MOU because, in his or her sole discretion, Driver income is negatively impacted as a result of the Pilot Program; or
 - iii. The Chairperson terminates the MOU because, in his or her sole discretion, the Participant failed to use best efforts to implement the Participant's Shift Change Plan.

9. Reporting and Evaluation

- a. During the Pilot Program, on a schedule to be determined by the Chairperson, the Participant shall complete and return to the Chairperson at least every month a survey of the following information:
 - i. Observations with regard to Driver satisfaction;
 - ii. Satisfaction of the Participant;
 - iii. For each shift leased out through a Fare Share leasing model or a Participant Leasing Model, the medallion number, Driver hack number and amount charged; and
 - iv. Other reasonable evaluation criteria determined by the Commission.
- b. TLC will also conduct agency-initiated evaluations of the following information:
 - i. Driver satisfaction;
 - ii. Changes in number of trips completed by Drivers per shift;

- iii. Changes in total fares received by Drivers per shift;
 - iv. Taxicab availability, by time of day and type of vehicle; and
 - v. Other evaluation criteria determined by the Commission.
- c. A safety evaluation is not required as the Pilot is not expected to have an impact on safety.
 - d. The Chairperson will review the reports submitted by the Participants and TLC and provide a summary of the findings in a final report to the Commission.
 - e. In evaluating the Pilot Program, the Chairperson will analyze the factors required by subdivisions (a) and (b) of this section, together with all other materials submitted by Participants and TLC, to determine whether proposing rules to permit flexible lease cap regulation should be considered.
 - f. A final report, including a recommendation whether to commence rulemaking, will be issued to the Commission within six months of the conclusion of the Pilot Program. The Chairperson will commence rulemaking, if warranted, within six months of the issuance of the final report.

10. Compliance

- a. Participants must comply with all applicable local, state and federal laws, including TLC rules subject to the exemptions in Section 7 hereof.
- b. Participants must not file with the Commission any statements that they know or reasonably should know to be false, misleading, deceptive or materially incomplete.
- c. Participants must not commit fraud, misrepresentation and larceny, willful acts of omission and commission; and must not act against the best interests of the public, including but not limited to acts or threats of harassment, abuse, use or threat of physical force, or failure to cooperate with a law enforcement officer or the Commission.
- d. Participants must notify TLC in writing of any suspension or revocation of any license granted to a Participant by any local, state or federal agency.