

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 drivers of paratransit vehicles.

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 included in the TLC’s regulatory agenda for Fiscal Year 2010.

A public hearing on these proposed rules was held by the TLC at its offices at 40 Rector Street, 5th Floor, New York, New York 10006 on May 8, 2009 at 2:30 p.m.

An additional 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 July 8, 2010 at 10:00 a.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 July 1, 2010.

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 July 6, 2010 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: 212-676-1135
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 6 thereto, to read as follows:

New Material is underlined.

Chapter 6

Paratransit Drivers

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§6-01 **Scope of this Chapter**

- (a) To establish procedures for the licensing and supervision of Paratransit Drivers who operate for hire in the City of New York.
- (b) To establish operating rules to protect the customers and the public.
- (c) To establish appropriate penalties for the violation of these Rules.

§6-02 **Penalties**

(a) *Unlicensed Activity.*

- (1) Unlicensed Activity is the act of providing or advertising the provision of any Commission-regulated for hire transportation service by:

- (i) Any Licensee whose License is suspended, revoked, or expired and not yet renewed, or
- (ii) Any person who does not hold a Valid License or Authorization from the Commission as a for hire driver, for the for hire vehicle, or for the for hire service, as applicable.

- (2) Unlicensed Activity specifically includes the activities listed in §19-506 and §19-528 of the Administrative Code, and can subject the violator to the seizure and possible forfeiture of the vehicle involved.

(b) *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.

(c) *Payment of Fines.*

- (1) Fines are due within 30 days of the day the violator is found guilty of the violation.
- (2) If fines are not paid by the close of business on the date due, the violator's License will be suspended until the fine is paid.
- (3) If a Respondent has made a timely request for a copy of the hearing recording (see §18-14(e) of these Rules), the time for payment of fines is extended to 21 days from the date of the issuance of the recording.

- (d) Mandatory Penalties. If a Licensee has violated a Rule listed below, or any combination of these Rules, the Commission will enforce the following mandatory penalties and fines:

<u>VIOLATION Description</u>	<u>Rule</u>	
<u>1. Proper licensing</u>	<u>§6-11(a)</u>	First Violation: \$100 - \$350
<u>2. only Licensees can operate Paratransit Vehicles</u>	<u>§6-11(d)</u>	
<u>3. refusal to serve</u>	<u>§6-20(a)</u>	Second Violation within 24 months: \$350 - \$500
<u>4. refusal to transport equipment for disabled passengers</u>	<u>§6-15(k)(1)</u>	
<u>5. attempt to overcharge additional fare to passengers</u>	<u>§6-15(g)(1)</u>	Third Violation within 24 months: Revocation of relevant License for Driver, base owner, or owner found in violation
<u>6. can conduct prearranged service only</u>	<u>§6-19(a)</u>	

- (1) The Commission can also suspend or revoke a Paratransit Driver's License.
- (2) The 24-month period referred to above will be counted backward from the date of the most recent conviction.
- (3) Any individual or Business Entity whose License has been revoked will not be eligible for any Commission License for at least one year after revocation.
- (4) The Commission will automatically revoke the License of any Licensee who has five or more summonses that remain open and outstanding for 12 months. The 12-month period will be counted from the date the earliest summons was issued.

§6-03 Definitions Specific to this Chapter

- (a) Applicant in this Chapter means an Applicant for an original or renewal Paratransit Driver's License.
- (b) Approved Motor Vehicle Accident Prevention Program. An accident prevention course approved by the New York State Department of Motor Vehicles.
- (c) Chauffeur's License. As used herein, Chauffeur's License shall mean:
 - (1) A Valid New York driver's license Class A, B, C or E; or
 - (2) A Valid license of similar class from another state of which the licensee is a resident.
- (d) Driver when used alone in this Chapter refers to a Paratransit Driver.
- (e) Driver's License (or License). In this Chapter, any reference to "Driver's License" or "License" (when used alone) will refer to a Paratransit Driver's License.

- (f) Paratransit Disability. A person with a Paratransit Disability is an individual with a physical or mental impairment, including any person with a mobility impairment who uses a wheelchair, three-wheeled motorized scooter or other mobility aid, or is semi-ambulatory, and who cannot board, ride or disembark from a vehicle without the assistance of a wheelchair lift or other boarding assistance device.
- (g) Paratransit Vehicle (also know as a wheelchair accessible van). A Paratransit Vehicle is any motor vehicle, equipped with a hydraulic lift or ramp(s) designed for the purpose of transporting persons who use wheelchairs or containing any other physical devices designed to permit access to and the transportation of a person with a Paratransit Disability.
- (h) Service Animal. A service animal is a guide dog, signal dog or any other animal trained specifically to work or to perform tasks for an individual with a disability, including, but not limited to, guiding individuals with visual impairments, alerting individuals with hearing impairments to intruders or sounds, providing minimal protection or rescue work, pulling a wheelchair or retrieving dropped items.
- (i) Vehicle when used alone in this Chapter refers to a Paratransit Vehicle.

§6-04 Licensing – Requirements

- (a) Age. An Applicant must be at least 18 years of age.
- (b) Identification. If the Applicant is applying for an original License, he or she must provide both of the following proofs of identity:
 - (1) A Valid Government photo ID
 - (2) A Valid, original social security card
- (c) Chauffeur’s License. An Applicant must hold a Valid Chauffeur’s License.
- (d) Qualified “Bus Driver” Under Article 19-A. An Applicant for a Paratransit Driver’s License must meet the special requirements for bus drivers under Article 19-A of the NYS Vehicle and Traffic Law.
- (e) Fitness for the Job.
 - (1) The Applicant must be in sound mental and physical condition
 - (2) The Applicant’s fitness must be certified by a licensed physician on forms provided by the Commission or as part of Applicant’s qualification process under Article 19-A of the NYS Vehicle and Traffic Law.
 - (3) The Commission can, for good cause, require the Applicant to be examined by a licensed physician chosen by the Commission.

- (4) An existing License can be suspended or revoked if the Driver fails to be examined as directed.
- (5) The Applicant's vision must be tested and Applicants must possess at least 20/40 vision in each eye (with corrective lenses if necessary).
- (6) The Applicant must be of good moral character.
- (f) Speak and Understand English. Applicants must be able to understand, speak, read and write the English language.
- (g) Familiar with Geography. Applicants must be familiar with New York City geography, streets and traffic regulations, as well as New York State Vehicle and Traffic Law.
- (h) **Reserved. Pass Drug Test**
- (i) Fingerprinting and Tests. All Applicants must be fingerprinted, be photographed and pass all tests administered or directed by the Commission.
- (j) File Application. Applicants must personally sign and file their application for a new or renewal Paratransit Driver's License.
- (k) Agreement to Accept Service of Process. An Applicant agrees that the City of New York can serve any notice or legal process of any kind upon the Driver by leaving a copy with anyone who resides at the Mailing Address listed on the Driver's application.
- (l) **Reserved. Training.**
- (m) Unique Requirements / Exceptions for New York Police Officers. A member of the New York City Police Department who applies for a Paratransit Driver's License must satisfy all the normal requirements for the License and also provide a letter to the Commission from his or her commanding officer approving the application.

§6-05 RESERVED [Licensing – Probationary Licenses]

§6-06 Licensing – Term of Licenses

- (a) Original (New) License Term. An original (new) Paratransit Driver's License will be Valid for two years from the date it is issued.
- (b) Renewal License Term. A License issued to a renewing Applicant will be Valid for two years from the date that the previous License expired.

§6-07 Licensing – License and Administrative Fees

- (a) Fee for License. The fee for a Paratransit Vehicle Driver's License will be \$60 annually.
- (b) When Fee is Paid. The fee for an original (new) or renewal License must be paid at the time the application is filed.
- (c) No Refund if Application Denied. The Commission will not refund fees if it denies or disapproves the application.
- (d) Late Filing Fee. The Commission will charge an additional fee of \$25 for late filing of a renewal application, if it allows the filing at all.
- (e) License Replacement Fee. The Commission will charge an additional fee of \$25 for each License it issues to replace a lost or mutilated License.

§6-08 Licensing – Process and Cause for Denial of License

- (a) Failure to Meet Any of Above Requirements. The Commission will deny the Paratransit License or renewal License of any Applicant who fails to meet the requirements. The Commission will inform the Applicant, in writing, of the specific reason(s) for this denial.
- (b) Material Misrepresentation or Falsification.
 - (1) The Commission will deny a Driver's License application, including a renewal application, and can suspend or revoke an existing License if the Applicant fails to notify the Commission of any material change in the information contained in the application. The Commission can impose other sanctions as well.
 - (2) The Commission will deny a Driver's License application and can suspend or revoke an existing License if the Applicant lies or misrepresents any information in the application. The Commission can impose other sanctions as well.
- (c) Evidence of Attempt to Bribe.
 - (1) An Applicant (or someone acting on behalf of the Applicant) must not offer or give any gift or gratuity to any employee, representative, public servant, or member of the Commission.
 - (2) An Applicant must immediately report to the Chairperson if any employee, representative, public servant, or member of the Commission makes a request or demand for any gift or gratuity.
- (d) Representation Before the Commission. If the Commission denies a new or renewal Driver's License application, the Applicant is entitled to a hearing before the Commission. The Applicant can be represented by an attorney or a non-attorney at the hearing. The Commission can, for cause, refuse to allow a non-attorney to represent the Applicant.

- (e) No Longer Meets Requirements. The Commission can deny, suspend or revoke the License of any renewal Applicant who no longer meets the requirements for a Paratransit Driver's License.

§6-09 RESERVED [Licensing – Transfer of License]

§6-10 Licensing -- Care of License

- (a) No One Else Can Use. A Driver must not allow anyone to use his or her Paratransit Driver's License. Drivers must not use another person's Paratransit Driver's License.

§6-10(a)	Fine: \$250	Appearance REQUIRED
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- (b) Suspension or Revocation of Chauffeur's License. A Driver must immediately report the suspension or revocation of his or her Chauffeur's License to the Commission, and must then surrender his Paratransit Driver's License to the Commission.

§6-10(b)	Fine: \$15-\$150	Appearance REQUIRED
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- (c) Loss or Theft of License. A Driver must notify the Commission in writing of the loss, theft or mutilation of his Paratransit Driver's License within 72 hours of that loss (not counting weekends and holidays). A Driver must report in person to apply for a replacement Paratransit Driver's License and must be re-photographed.

§6-10(c)	Fine: \$25	Appearance NOT REQUIRED
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- (d) Unreadable License.

- (1) A Driver must not do anything to any portion of his Paratransit Driver's License or the attached photograph that would make the License unreadable or the photograph unrecognizable.

§6-10(d)(1)	Fine: \$50	Appearance NOT REQUIRED
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- (2) A Driver must immediately surrender any unreadable, unrecognizable, or mutilated Paratransit Driver's License to the Commission.

§6-10(d)(2)	Fine: \$25	Appearance NOT REQUIRED
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- (e) Keep Photo Updated. A Driver must come to the Commission to be re-photographed whenever his or her physical appearance has changed.

§6-10(e)	Fine: \$25	Appearance NOT REQUIRED
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- (f) Safeguarding Licenses.

- (1) A Driver must safeguard his or her Paratransit Driver’s License and the Paratransit Vehicle License.
- (2) Locking the Paratransit Vehicle with the Paratransit Driver’s License and Paratransit Vehicle License inside during his or her shift will satisfy this rule.
- (3) A Driver must not leave his or her Licenses in the Paratransit Vehicle while another is in possession of the Vehicle.

§6-10(f)	Fine: \$25	Appearance NOT REQUIRED
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§6-11 Comply with Laws -- Unlicensed Activity Prohibited

- (a) Vehicle Must be Licensed. A Driver must not operate a paratransit vehicle for hire within the City of New York, unless it is properly licensed by the Commission.

§6-11(a)	MANDATORY PENALTIES: See §6-02	Appearance REQUIRED
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- (b) Driver Must be Licensed. A driver of a New York City Paratransit Vehicle for hire must be licensed as a Paratransit Driver by the Commission.

§6-11(b)	Fine: <u>\$100 – 1st Offense</u> <u>\$250 – 2nd Offense</u> <u>\$350 – 3rd Offense</u> <u>\$500 – 4 or more offenses within 12 months</u>	Appearance REQUIRED
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- (c) Driving Must Have Valid Chauffeur’s License. A Driver must not operate a Paratransit Vehicle unless he or she possesses a Valid Chauffeur’s License.

§6-11(c)	Fine: \$100-\$250 and/or suspension up to 30 days unless exempted by the Commission	Appearance REQUIRED
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- (d) Driver Must Possess Valid Paratransit License.

- (1) A driver must not operate a Paratransit Vehicle unless he or she possesses a Valid Paratransit Driver’s License.

§6-11(d)(1)	Fine: \$100	Appearance REQUIRED
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- (2) A Driver will not permit any individual who is not currently licensed by the Commission to operate the Paratransit Vehicle in which he or she is dispatched, unless directed to do so by the owner or his or her agents.

§6-11(d)(2)	MANDATORY PENALTIES: See §6-02	Appearance REQUIRED
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- (e) Vehicle Must be Insured. A Driver must not operate a Paratransit Vehicle unless the vehicle is adequately insured in accordance with New York State Law.

<u>§6-11(e)</u>	<u>Fine: \$100</u>	<u>Appearance REQUIRED</u>
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- (f) Driver Must Not Drive with Expired Paratransit License.

- (1) A Driver must submit an application for renewal of his or her License before its expiration date, unless the Commission extends the date.

<u>§6-11(f)(1)</u>	<u>Fine: \$25</u>	<u>Appearance NOT REQUIRED</u>
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- (2) A driver who operates as a licensee after the expiration date of a License and before the renewal License has been issued is engaged in Unlicensed Activity and can be subject to penalties under other applicable statutes and regulations.

- (g) Driver Must Not Drive with a Suspended or Revoked Paratransit License. A driver must not operate a Paratransit Vehicle in New York City while his Paratransit Driver's License is revoked, suspended or expired.

<u>§6-11(g)</u>	<u>Fine:</u> <u>\$100 – 1st Offense</u> <u>\$250 – 2nd Offense</u> <u>\$350 – 3rd Offense</u> <u>OATH – 4 or more offenses within 12 months</u>	<u>Appearance REQUIRED</u>
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§6-12 Comply with Laws – Proper Conduct

- (a) No Bribery. An Applicant or Driver (or anyone representing the Driver) must not offer or give any gift, gratuity or thing of value to any employee, representative or member of the Commission or any other public servant.

<u>§6-12(a)</u>	<u>Fine: \$1,000 up to revocation</u>	<u>Appearance REQUIRED</u>
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- (b) Report Request for Bribe. A Driver must immediately report to the Commission any request or demand for a gift, gratuity or thing of value from him or his representative by any employee, representative or member of the Commission or any other public servant.

<u>§6-12(b)</u>	<u>Fine: \$1,000 up to revocation</u>	<u>Appearance REQUIRED</u>
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- (c) No Fraud, Theft. While performing the duties and responsibilities of a Licensee, a Driver must not commit or attempt to commit, any act of fraud, misrepresentation or theft.

<u>§6-12(c)</u>	<u>Fine: \$25-\$350 and/or suspension up to 30 days</u>	<u>Appearance REQUIRED</u>
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- (d) No Willful Acts of Omission. While performing the duties and responsibilities of a Licensee, a Licensee must not deliberately fail to perform, alone or with another, any act

where this failure is against the best interests of the public although not specifically mentioned in these Rules.

§6-12(d)	Fine: \$25-\$350 and/or suspension up to 30 days	Appearance REQUIRED
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- (e) No Willful Acts of Commission. While performing the duties and responsibilities of a Licensee, a Licensee must not deliberately perform or attempt to perform, alone or with any other, any act that is against the best interests of the public although not specifically mentioned in these rules.

§6-12(e)	Fine: \$25-\$350 and/or suspension up to 30 days	Appearance REQUIRED
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- (f) Notify of Criminal Conviction.

(1) A Driver must notify the Commission within 15 calendar days after the Driver is convicted of any crime.

(2) The Driver must deliver to the Commission a certified copy of the certificate issued by the clerk of the court explaining what happened as a result of the conviction, within 15 days of sentencing.

§6-12(f)	Fine: \$25-\$150	Appearance REQUIRED
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- (g) Cooperate with the Commission.

(1) A Driver must answer all questions and comply with all communications, directives, and summonses issued by the Commission or its representatives.

(2) A Driver must produce any licenses, Trip Records, or other documents required by the Commission.

§6-12(g)(1)(2)	Fine: \$200 and suspension until compliance	Appearance REQUIRED
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(3) A Driver must notify the Commission of any change in mailing address (or any other information provided on his or her License application) within 72 hours (not including weekends and holidays). (NOTE: Any notice sent by the Commission will be considered adequate notice if sent to the last mailing address provided by the Driver.)

§6-12(g)(3)	Fine: \$50	Appearance NOT REQUIRED
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- (h) Cooperate with Law Enforcement. A Driver must cooperate with all law enforcement officers and all authorized representatives of the Commission. Cooperation includes, but is not limited to, responding to a request for the Driver's name, License number, and any documents Driver is required to have in his or her possession.

§6-12(h)	Fine: \$15-\$150	Appearance REQUIRED
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- (i) Threats, Harassment, Abuse. While performing the duties and responsibilities of a Licensee, a Driver must not threaten, harass, or abuse any person or distract or attempt to distract any Service Animal.

§6-12(i)	Fine: \$50-\$350 and/or suspension up to 30 days	Appearance REQUIRED
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- (j) Use or Threat of Physical Force. While performing the duties and responsibilities of a Licensee, a Driver must not use or attempt to use any physical force against a person or Service Animal.

§6-12(j)	Fine: \$25-\$350 and/or suspension up to 30 days	Appearance REQUIRED
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- (k) No Unlawful Purpose. A Driver must not use or permit another person to use his or her Paratransit Vehicle for any unlawful purpose and must immediately report to the police any criminal use or attempted criminal use involving the vehicle.

§6-12(k)	Fine: \$25-\$350 and/or suspension up to 30 days	Appearance REQUIRED
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§6-13 Comply with laws – Miscellaneous

- (a) Traffic Laws. A Driver must operate his or her Paratransit Vehicle in full compliance with:

- (1) All New York State and City traffic laws, rules and regulations;
- (2) All applicable New York and New Jersey Port Authority and Triboro Bridge and Tunnel Authority rules and regulations;
- (3) The rules and regulations of any other regulatory body or government agency having jurisdiction over motor vehicles.

§6-13(a)	Fine: \$25-\$350 and/or suspension up to 30 days or revocation if Driver is found guilty of having violated this rule more than three times within a 12-month period.	Appearance REQUIRED
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- (b) Critical Driver's Program. In addition to any other action the Commission might take, the following penalties will be enforced as part of the Commission's Critical Driver's Program:

- (1) License Suspension. If, within a 15-month period, a Driver accumulates six or more points on his or her driver's license (whether issued by New York or another state), the Commission will suspend the Driver's Paratransit Driver's License for 30 days.
- (2) License Revocation. If, within a 15-month period, a Driver accumulates 10 or more points on his or her driver's license (whether issued by New York or another state), the Commission will revoke the Driver's Paratransit Driver's License.

- (3) Review of Driver Fitness. The Commission can at any time review the fitness of a Driver following any moving violation, accident, or other driving related incident.
- (4) 15-Month Period. When calculating any suspension or revocation, the Commission will use the relevant 15-month period that begins with the date of the most recent violation carrying points.
- (5) Date of Point Accumulation. When points are assigned as a result of a violation, they will be counted as of the date of the violation.
- (6) Multiple Points from a Single Incident. A Driver can be fined points against his or her license for multiple violations arising from a single incident. For the purpose of calculating points that might lead to a License suspension or revocation, if a Driver has accumulated points for multiple violations arising from a single incident, the Commission will count the single violation with the highest point total.
- (7) Point Reduction for Voluntary Course Completion.
 - (i) Before suspending or revoking a Driver's License, the Commission will deduct two points from the total points of any Licensee who voluntarily attends and satisfactorily completes an Approved Motor Vehicle Accident Prevention Course.
 - (ii) The Driver must provide the Commission with proof that the course was satisfactorily completed before the Commission will reduce the Driver's point total.
 - (iii) If the Commission has already suspended or revoked the Driver's License, the point reduction will not change the Commission's decision.
 - (iv) The Commission will not reduce the total points of any Driver more than once in any 18-month period.
- (c) Reserved. Program for Persistent Violators.

§6-14 Operations – Passenger and Driver Safety

- (a) Safe Driving. A Driver must not operate a Vehicle unless it is in safe operating condition, and it meets and is operated under all the requirements of New York State and New York City vehicle and traffic laws, and all Commission requirements under these rules.

§6-14(a)	Fine: \$50-\$150.	Appearance REQUIRED
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- (b) Reckless Driving Rule. A Paratransit Driver must not operate his or her vehicle in a manner or speed that endangers others or their property.

§6-14(b)	Fine: \$25-\$250 and/or suspension up to 30 days or revocation if Driver is found guilty of having violated this rule more than three times within a 12-month period.	Appearance REQUIRED
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(c) Reporting Before Leaving Scene.

- (1) Any Paratransit Driver involved in an accident must stop and identify himself or herself.
- (2) Before leaving the accident scene, the Paratransit Driver will provide the following to the other involved parties or to a police officer on the scene:
 - (i) An opportunity to copy information from the Driver's Chauffeur's License, Paratransit Driver's License and insurance card.
 - (ii) The Driver's name and residence address,
 - (iii) The Paratransit Driver's number,
 - (iv) The Paratransit Vehicle Identification number
 - (v) The Vehicle's insurance carrier and the insurance policy number.

§6-14(c)	Fine: \$25-\$250 and/or suspension up to 30 days or revocation if Driver is found guilty of having violated this rule more than three times within a 12-month period.	Appearance REQUIRED
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- (d) Driving While Impaired. A Driver must not operate a Paratransit Vehicle if his or her driving ability is impaired by either alcohol or drugs. A Driver must not consume alcoholic beverages or illegal drugs while occupying the vehicle.

§6-14(d)	Fine: \$50-\$300 and/or suspension or revocation.	Appearance REQUIRED
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(e) Reserved. TLC can Require Drug Test.

- (f) Not Allowed to Drive More than 12 Consecutive Hours. A Driver must not operate a Paratransit Vehicle for more than 12 consecutive hours. If a Driver has accepted a passenger prior to the conclusion of the twelfth hour the Driver can complete that trip provided he or she is able to drive safely.

§6-14(f)	Fine: \$25.	Appearance NOT REQUIRED
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(g) Handling Passengers with Infectious Diseases.

- (1) Drivers must obey any Federal, State or City laws and regulations regarding the handling of passengers with infectious diseases. This includes providing passengers with things such as masks and gloves when required.
- (2) Drivers must adhere to any Federal, State or City laws and regulations regarding cleaning Paratransit Vehicles after transporting passengers with infectious diseases and the disposal of contaminated materials. It is the responsibility of the owner of the Paratransit Vehicle to provide protective clothing (goggles, gloves, gowns and masks) to any employee who disinfects the vehicle.
 - (i) The New York State Department of Health has recommended the following as an appropriate disinfectant solution: One (1) part sodium hypochlorite solution (bleach) to nine (9) parts water – fill the bucket with water first and then add the solution.
 - (ii) If a stretcher is contaminated, it can be cleaned and disinfected by wiping. If it is saturated, however, Drivers (or owners) are required to dispose of it in an appropriate manner. The Driver (or owner) must dispose of any contaminated linen. **Note:** Dispose of contaminated material by placing the items in a buff-colored impervious plastic bag and seal the bag and tag it as “contaminated” and dispose of the material in the manner approved at a local hospital.
 - (iii) In the case of gross contamination, where the vehicle is saturated or encrusted, then the vehicle must be sterilized with steam, gas or liquid agents.

§6-14(g)	Fine: \$25-\$1,000 possible suspension or revocation (OATH).	Appearance REQUIRED
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(h) Accident Notification.

- (1) A Driver must immediately notify the Vehicle owner if the Driver and the Paratransit Vehicle are involved in an accident.
- (2) A Driver must immediately notify his or her employer of any traffic infraction, accident or conviction as required in section 509-i of Article 19A of the New York State Vehicle and Traffic Law.

§6-14(h)	Fine: \$25-\$250 and/or suspension up to 30 days	Appearance REQUIRED
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(i) Use of an Electronic Communication Device.

- (1) A Driver must not Use an Electronic Communication Device while operating a Vehicle. A Driver can Use an Electronic Communication Device only while the Vehicle is lawfully standing or parked.

NOTE: A Driver convicted of a violation of any similar state law or rule will get points under this Rule just as if he or she had been convicted of a violation of this Rule.

§6-14(i)(1)	Fine: \$200	Appearance NOT REQUIRED
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- (2) In addition to the penalties provided above for any violation of this Rule, a Driver convicted of a violation of this Rule or any similar state law or rule, must take a Distracted Driving Course.

(i) The Commission will issue a directive to a Driver to take the Distracted Driving Course.

(ii) The Driver must complete the Distracted Driving Course and provide proof of completion to the Chairperson no later than 60 days after the directive is issued.

- (3) Affirmative Defense. A Driver can offer an affirmative defense to a charge of Using an Electronic Communication Device under this Rule if all of the following are true:

(i) The communication was to an emergency response operator;

(ii) The communication reports an imminent threat to life or property;

(iii) The Driver could not safely stop the Vehicle to make the report; and

(iv) The Driver provides documentary proof of communication with an emergency response provider.

§6-15 Operations -- General Rules During Operation of Vehicle

- (a) No Weapons. A Driver must not carry a weapon while operating a Paratransit Vehicle without the Commission's written authorization.

§6-15(a)	Fine: \$100 and/or suspension up to 30 days.	Appearance REQUIRED
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- (b) *Driver Neat & Clean.* A Driver must be clean and neat in appearance when operating a Paratransit Vehicle for hire.

§6-15(b)	Fine: \$25.	Appearance NOT REQUIRED
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- (c) *No Smoking.* A Driver must not smoke when transporting a passenger, or while assisting the passenger in or out of the vehicle.

§6-15(c)	Fine: No Penalty Noted.	Appearance NOT REQUIRED
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- (d) *Reserved. No Locking Rear Doors.*

- (e) *Reserved.*

- (f) *Reserved. Have E-ZPass.*

- (g) *No Overcharges.*

- (1) A Driver must not charge or try to charge a fare above the approved rate of fare established by the owner and filed with the Commission.

- (2) A Driver must not charge or try to charge any additional fees for transporting a person with a Paratransit Disability, a Service Animal, or a wheelchair or other mobility aid.

§6-15(g)(1)-(2)	MANDATORY PENALTIES: See §6-02	Appearance REQUIRED
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- (3) A Driver must give passengers the correct change.

§6-15(g)(3)	Fine: \$25-\$150.	Appearance REQUIRED
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- (4) A Driver must not ask or in any way indicate to a passenger that a tip is expected or required.

§6-15(g)(4)	Fine: \$50.	Appearance REQUIRED
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- (h) *Reserved. Non-Paying Customers.*

- (i) *No Overloading Vehicle.* A Driver must never carry more passengers than the capacity of the vehicle as determined by the State Department of Transportation.

§6-15(i)	Fine: \$25.	Appearance NOT REQUIRED
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(j) **Reserved. Use of Front Seat.**

(k) **Luggage.**

(1) A Driver must not refuse to transport a passenger's wheelchair, crutches or other property.

<u>§6-15(k)(1)</u>	<u>MANDATORY PENALTIES: See §6-02</u>	<u>Appearance REQUIRED</u>
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(2) When necessary or if the passenger requests it, the Driver must load or unload the passenger's luggage and other property, within reason.

<u>§6-15(k)(2)</u>	<u>Fine: \$50-\$100.</u>	<u>Appearance REQUIRED</u>
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(l) **Reserved. No Transporting Property Only.**

(m) **No 'Marketing' to Passengers. A Driver must not sell or advertise any service or merchandise to the passengers without prior written approval from the Commission.**

<u>§6-15(m)</u>	<u>Fine: \$50.</u>	<u>Appearance NOT REQUIRED</u>
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(n) **Assist Passengers to Board Vehicle.**

(1) A Driver must provide all necessary and reasonable assistance to passengers to board the vehicle, to be secured inside, to be delivered to their destination, and to depart from the vehicle.

(2) The Driver must assist all passengers whether the passenger is ambulatory, or uses a wheelchair or other mobility aid.

(3) The Driver's assistance must also include ensuring that a service animal has entered and exited the vehicle.

(4) The Driver is not required to assist passengers up or down the steps.

<u>§6-15(n)(1)-(4)</u>	<u>Fine: \$100-\$340 and/or suspension up to 30 days and possible revocation (OATH).</u>	<u>Appearance REQUIRED</u>
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(o) **Be Punctual. A Driver must be diligent and on time in picking up and transporting passengers.**

<u>§6-15(o)</u>	<u>Fine: \$25.</u>	<u>Appearance NOT REQUIRED</u>
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(p) **Find Alternate Transportation if Vehicle Breaks Down.**

(1) If the Paratransit Vehicle becomes inoperable while a passenger is in the Vehicle, the Driver must try to find comparable transportation for the remainder of the passenger's trip.

(2) This does not apply if the passenger wants to find his or her own transportation.

<u>§6-15(p)</u>	<u>Fine: \$50 - \$150.</u>	<u>Appearance REQUIRED</u>
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(q) Courtesy. A Driver must be courteous to passengers.

<u>§6-15(q)</u>	<u>Fine: \$25.</u>	<u>Appearance NOT REQUIRED</u>
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§6-16 Operations -- Comply with Reasonable Passenger Requests

(a) Shortest Route. A Driver must take passengers to their destination by the shortest, most reasonable route unless the Driver or passenger requests a different route, and all of the other passengers agree.

<u>§6-16(a)</u>	<u>Fine: \$25-\$150.</u>	<u>Appearance REQUIRED</u>
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(b) Request to Change Destination or Terminate. A Driver must comply with a passenger's request to change the destination or terminate the trip unless it is impossible or unsafe for the Driver to comply. The passenger can not request this change in an emergency situation, and any change or termination must be in the best interest of the other passengers.

<u>§6-16(b)</u>	<u>Fine: \$25-\$150.</u>	<u>Appearance REQUIRED</u>
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(c) Request for Driver's Name, License Number. A Driver must comply with all lawful and reasonable requests from passengers. This can include giving his or her name, his or her Paratransit Driver's License number and the Paratransit Vehicle's license number.

<u>§6-16(c)</u>	<u>Fine: \$50-\$100.</u>	<u>Appearance REQUIRED</u>
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(d) Request for Receipt.

(1) Upon request, the Driver must give a passenger a receipt for payment of the fare.

(2) The receipt must clearly show the date, time, Paratransit Vehicle license plate number, name of the Base, fare paid, extras, and the telephone number of the Commission's complaint department.

<u>§6-16(d)</u>	<u>Fine: \$25.</u>	<u>Appearance NOT REQUIRED</u>
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(e) Passenger Requests on Audio.

(1) A Driver must turn the radio on or off at the passenger's request.

- (2) The passenger has the right to select the radio station.
- (3) The radio volume will only be played at a reasonable level, and the Driver must abide by all noise ordinances.

§6-16(e)	Fine: \$25.	Appearance NOT REQUIRED
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- (f) Passenger Request Regarding Air Conditioning / Heat. A Driver must turn the air conditioning or heating device in a Paratransit Vehicle on or off at a passenger's request.

§6-16(f)	Fine: \$25.	Appearance NOT REQUIRED
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§6-17 Operations – Method of Payment

- (a) Reserved. Accept US Currency.
- (b) Be Able to Make Change. A Driver must always be capable of making change for a \$20 bill when providing service on a cash basis.

§6-17(b)	Fine: \$25.	Appearance NOT REQUIRED
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- (c) Reserved. Credit/debit Card with Operable T-PEP.

§6-18 Operations -- Lost Property

- (a) Inspecting for Passenger Property. The Driver must inspect the interior of the Paratransit Vehicle after each trip and any property found must be returned to the passenger if possible; otherwise it must be taken immediately to the police precinct closest to where the passenger was discharged.

§6-18(a)	Fine: \$50-\$250.	Appearance REQUIRED
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- (b) Inform Commission of Lost Property. The Driver must promptly inform the Commission of any property found and the police precinct where it is held if the property is not returned to the passenger.

§6-18(b)	Fine: \$25.	Appearance NOT REQUIRED
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§6-19 Operations – Passenger Solicitation and Engagement

- (a) Limitations on Driver Solicitation of Passengers. A Driver must only pick up passengers on a prearranged basis. Paratransit Drivers must not solicit or respond to hails.

§6-19(a)	MANDATORY PENALTIES: See §6-02	Appearance REQUIRED
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§6-20 Operations – Refusing Passengers

(a) Must Not Refuse. Unless justified, a Driver who is dispatched must not refuse by words, gestures or any other means, to transport a person who has prearranged the trip with a destination within the City of New York. This includes a passenger accompanied by a service animal.

§6-20(a)	MANDATORY PENALTIES: See §6-02	Appearance REQUIRED
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(b) Justification for Refusal. The following are justifiable grounds for refusing to provide transportation services:

- (1) The passenger has a weapon.
- (2) The passenger has a package or some article that the Driver reasonably believes could injure others or damage the Paratransit Vehicle.
- (3) The passenger is intoxicated or disorderly. (A Driver will not, however, refuse to provide service solely because a disability results in annoying, offensive, or inconvenient behavior.)
- (4) The passenger is accompanied by an animal which is not properly or adequately secured in a kennel case or other suitable container. This provision will not apply to service animals accompanying people with disabilities.
- (5) The passenger is in need of emergency medical assistance.

§6-21 RESERVED [Operations –Cooperation with Issuing Jurisdictions]

§6-22 Vehicles – Operation and Condition of Vehicle

(a) Pollution Control.

- (1) The Driver will not unnecessarily allow the Vehicle’s engine to idle for longer than three minutes.
- (2) The Driver will adhere to the New York City Air Pollution Control Code.

§6-22(a)	Fine: \$25.	Appearance NOT REQUIRED
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(b) Inspect Condition. A Driver must personally inspect and reasonably determine that all equipment, including brakes, tires, lights, signals, wheelchair ramps and fastening devices are in good working order, before operating the vehicle.

§6-22(b)	Fine: \$15-\$150.	Appearance REQUIRED
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(c) Reserved. No On-street Maintenance Other than Emergency.

- (d) Clean Interior. A Driver must keep the Paratransit Vehicle clean and in good appearance during his or her work shift.

§6-22(d)	Fine: \$25.	Appearance NOT REQUIRED
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- (e) No Unauthorized Equipment. Drivers must not put any unauthorized equipment, devices or signs on or in a Paratransit Vehicle during their work shifts (excluding mobility devices, such as grab bars, or non-slip flooring). Drivers can install devices or equipment not listed here only with the written authorization of the Commission.

§6-22(e)	Fine: \$25-\$200 and/or suspension up to 30 days.	Appearance REQUIRED
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§6-23 Vehicles – Items Required to be in the Vehicle During Operation

- (a) General. The following items must be present in the Paratransit Vehicle prior to its operation:

- (1) The Driver’s Paratransit Driver’s License
- (2) The Vehicle’s registration certificate (or a photocopy)
- (3) The Paratransit Vehicle License (or s photocopy)
- (4) An insurance card (or a photocopy)
- (5) The lease card, if any, (or a photocopy)
- (6) The Trip Record
- (7) Any notices required to be posted in the Paratransit Vehicle

§6-23(a)	Fine: \$15 each violation.	Appearance NOT REQUIRED
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§6-24 Vehicles – Trip Records.

- (a) Information Required in Trip Records. All Trip Records will contain the following information:

- (1) The Driver’s Paratransit Driver’s License number
- (2) The Paratransit Vehicle’s state license plate number
- (3) The date and time of pick-up of each passenger
- (4) The date and time of drop-off of each passenger

- (5) The locations of pick-ups and drop-offs
- (6) Any other entries required by the Commission and local, state or federal law.
- (7) When the electronic Trip Record system is operable, the Driver will use the system to record entries for the locations, dates and time of pick-ups and drop-offs, at the times they occur; the Base Owner is permitted to make all other entries

<u>§6-24(a)</u>	<u>Fine: \$50 for each violation of this rule; however, no fine for a violation of this rule will exceed \$100 for each vehicle stop.</u>	<u>Appearance NOT REQUIRED</u>
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(b) Electronic Trip Record System.

- (1) An electronic Trip Record system must be installed and functioning in each Paratransit Vehicle.
- (2) If the electronic system malfunctions, the Driver:
 - (i) Must report the malfunction promptly,
 - (ii) Must use a written Trip Record temporarily, and
 - (iii) Must not operate the Paratransit Vehicle for hire for more than three business days after timely reporting the malfunction.

<u>§6-24(b)</u>	<u>Fine: \$250.</u>	<u>Appearance REQUIRED</u>
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(c) Maintaining Written Trip Records When Electronic System is Inoperable. The written Trip Record must contain each of the record entries required under §6-26(a) above and must be maintained as follows:

- (1) All entries must be in ink and the Trip Record must be current.
- (2) At the beginning of each work shift the Driver will sign and certify on the Trip Record that the Paratransit Vehicle and its equipment are in good working condition and that all required items are present. (One entry for an owner/Driver is sufficient.)

<u>§6-24(c)</u>	<u>Fine: \$50 for each violation of this Rule; however, no fine shall exceed \$100 for each Vehicle stop.</u>	<u>Appearance NOT REQUIRED</u>
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(d) Correcting Trip Records Entries. The only method of correcting errors in written trip records is as follows:

- (1) Drivers must correct errors by written Trip Records by drawing a single line through the incorrect entry and initialing the correction.
- (2) A Driver must not erase, smear, cross out or otherwise cover an entry on a written Trip Record, and must not leave any blank lines between entries.
- (3) No one may erase, delete, alter, change or obliterate electronic Trip Record data collected in the Paratransit Vehicle.
- (4) A Driver must report all necessary corrections to the Base owner.

<u>§6-24(d)</u>	<u>Fine: \$30.</u>	<u>Appearance NOT REQUIRED</u>
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§6-25 Vehicle Equipment – Electronic Trip Record System

- (a) The “electronic Trip Record system” is hardware and software that collects and stores the electronic trip record data required by the Commission. This includes the following:
 - (1) The Driver’s Paratransit Driver’s License number
 - (2) The Paratransit Vehicle’s state license plate number
 - (3) The date and time of pick-up of passengers
 - (4) The date and time of drop-off of passengers
 - (5) The locations of pick-ups and drop-offs
 - (6) Any other entries required by the Commission and local, state or federal law.
- (b) The specific pick-up and drop-of locations, dates and times must be collected in the vehicle during the trip; the Base Owner is permitted to make other entries.

§6-26 Vehicle Equipment – Miscellaneous

- (a) Wheelchair Ramps and Fastening Devices. A Driver must only use wheelchair ramps and fastening devices that are functioning properly and are secure.

<u>§6-26(a)</u>	<u>Fine: \$25-\$250 and/or suspension up to 30 days.</u>	<u>Appearance REQUIRED</u>
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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 4, Paratransit Services, as to Drivers of Paratransit Vehicles	Chapter 6, Paratransit Drivers

The proposed rules make the following substantive changes to the provisions of the current rules governing drivers of paratransit vehicles:

- Eliminate references to drug addiction that are contrary to the Americans with Disabilities Act.
- Provide that a driver must be re-photographed whenever his or her appearance changes, to conform to existing practice by which drivers are photographed by the TLC, rather than submit photographs to the TLC as stated in the existing rules.
- To fully incorporate the provisions of Local Law 16 of 2008, the proposed rule revises the penalty provisions to reflect that fines are stayed for thirty days, and further pending decision of a timely-filed appeal.

- Provide that the certification as to medical fitness of an applicant may be done as part of the certification process under Article 19-A of the NYS Vehicle and Traffic Law, which conforms the rule to current TLC practice.
- Clarify the driver's duties with respect to the operation of the electronic trip record system to conform to actual experience.

Supplemental Statement

A public hearing on these proposed rules was held on May 8, 2009. Following that hearing the TLC voted at a public meeting on May 28, 2009 to conditionally approve these rules, subject to a further vote of approval after all 19 revised rules chapters have been conditionally approved. All 19 chapters having now been conditionally approved by the TLC, the 19 chapters are being re-published for additional public comment and final approval by the TLC.

After the conditional TLC approval of this rules chapter, the following additional substantive changes have been made to this chapter as a result of public comment and testimony previously received and considered and staff comments:

- Technical changes were made to conform certain definitions to those proposed in Chapter 1 Definitions as a result of staff comment.
- The general penalty and fines section was amended to include the subject of unlicensed activity and to align payment of fines terms with those of other chapters. These changes were made as a result of staff comment based on further drafting refinements made by the consultant.
- The provisions of section 6-12 regarding acts of commission and omission were modified based on staff comment to reflect further refinements to this language by the consultant and the staff, including following public comment to similar provisions in Chapter 4.
- The provisions regarding cell phone use were revised to track revised TLC rules governing the use of cell phones and electronic devices.