

## **NEW YORK CITY TAXI AND LIMOUSINE COMMISSION**

### **Notice of Promulgation of Rules**

Notice is hereby given in accordance with Section 1043(b) of the New York City Charter (“Charter”) that the Taxi and Limousine Commission (“TLC”) promulgates rules to reduce the risks of fatigued driving by its licensed drivers.

These rules are promulgated pursuant to Sections 1043 and 2303 of the Charter and Section 19-503 of the Administrative Code of the City of New York.

These rules were published on May 24, 2016, for public comment in the City Record. On June 23, 2016, a public hearing was held by the TLC at its offices at 33 Beaver Street, 19th Floor, New York, New York, 10004.

### **STATEMENT OF BASIS AND PURPOSE OF RULES**

Commercial drivers’ long work hours make them more susceptible than others to fatigued driving. An existing Taxi and Limousine Commission (TLC) rule addresses driver fatigue by limiting the number of consecutive hours that a taxi driver can drive for hire to 12 hours. But the restriction does not apply to for-hire vehicle drivers and is difficult to enforce because a break of any length could reset the clock and allow a driver to comply with TLC rules while working excessive hours. Consistent with Mayor de Blasio’s Vision Zero Initiative’s emphasis on traffic safety, TLC reviewed the research on fatigued driving with the goal of developing new rules that would apply across its service sectors.

Research conducted by the Centers for Disease Control, the National Highway Traffic Safety Administration (NHTSA), the National Sleep Foundation, and the US Federal Highway Administration concludes that long work hours lead to acute fatigue and reduced sleep, and compounded over a period of days and weeks, may lead to chronic fatigue. For drivers, this means slowed reaction times and a reduced ability to assess situations quickly, potentially leading to driver errors and a higher risk of crashing. In addition to longer working hours being associated with fewer hours of sleep, research has shown that being awake for 18 hours results in impairment equal to blood alcohol concentrations (BAC) of 0.05 (considered driving while under the influence of alcohol in New York State), and being awake for 24 hours results in impairment equal to a BAC of 0.10 (1.25 times the 0.08 threshold for driving while intoxicated). Although the vast majority of TLC-licensed drivers are not driving an excessive number of hours, there is a small segment of drivers who do. Indeed, TLC has heard concerns from passengers that their drivers may have fallen asleep behind the wheel.

The new rule seeks to reduce the serious safety risks of fatigued driving by:

- Prohibiting a driver of a taxi or for-hire vehicle from picking up passengers for hire in more than 12 hours (whether or not they are consecutive) in any 24-hour period;
- Prohibiting a driver of a taxi or for-hire vehicle from picking up passengers for hire in more than 72 hours in any seven-day period;

- Resetting the 12-hour clock for a driver after any period in which he or she has gone at least eight consecutive hours without pickups (e.g., a driver who works 10:00 a.m. – 10:00 p.m. on Monday can begin a 12-hour shift on Tuesday as early as 6:00 a.m.); and
- Prohibiting a base from dispatching a driver to do pickups in more than 12 hours in any 24-hour period (unless that base has stopped dispatching the driver to do pickups for eight or more consecutive hours) and prohibiting a base from dispatching a driver to do pickups in more than 72 hours in any seven-day period.

Unlike the current rule, the new rule:

- **Addresses acute fatigue.** By prohibiting drivers from operating for hire for more than 12 hours in any 24-hour period, while also accounting for adequate downtime of at least 8 hours, this rule reduces the likelihood that drivers will work more hours than may be safe within one day.
- **Addresses chronic fatigue.** By prohibiting drivers from operating for hire for more than 72 hours in any seven-day period, the rule reduces the likelihood that drivers and the public will face additional safety risks associated with working long hours over many days without time for the body to recuperate. Drivers who like long shifts could work up to six 12-hour shifts in a week but would need to rest one day a week. Most drivers do not work full 12-hour shifts and work shorter shifts. These drivers could still work every day so long as the total number of hours worked per week does not exceed 72.
- **Provides flexibility for different shift types.** The rule maintains the ability for drivers to work twelve-hour shifts, a standard shift length in the taxi industry for decades, while also creating a standard that is flexible enough for drivers of any vehicle type who work less regular or “split shift” schedules.
- **Fights fatigue in both taxi and for-hire vehicle sectors.** By applying to both taxi and for-hire vehicle drivers, this rule ensures the public and drivers have the same protections regardless of the service sector.
- **Reflects cross-sector driver mobility.** This rule applies uniformly across sectors to address drivers who move back and forth between taxis and for-hire vehicles, a practice that may become more common as TLC implements a new “universal” driver’s license for use in both taxis and for-hire vehicles.

The daily and weekly limits fall within a range of limits in place for professional drivers in other jurisdictions:

- In any 24-hour period, Chicago and Nevada taxi drivers may drive no more than 12 hours; Philadelphia taxi and limousine drivers may drive no more than 14 hours; and Los Angeles for-hire drivers may drive no more than 10 hours. Nationally, interstate truck and bus drivers may generally drive no more than 11 and 10 hours, respectively.
- In any seven-day period, interstate truck and bus drivers may generally drive no more than 60 hours; Los Angeles for-hire drivers may drive no more than 70 hours; Minneapolis taxi drivers may drive no more than 72 hours; and Philadelphia and Chicago for-hire drivers may drive no more than 84 hours.

The limits on driver hours are supported by data on TLC-licensed drivers, as well as by best practices and scientific research. Over 2014 and 2015, the crash rate of taxi drivers working more than 12 hours in a day was 23.8 percent higher than for those who worked 12 or fewer hours in a day. Over the same two-year period, the crash rate of taxi drivers working more than 72 hours in a week was 8.6 percent higher than for those who worked 72 or fewer hours in a week. Moreover, the Institute of Medicine classifies transportation as a safety-sensitive industry, and work hours for professional drivers (e.g., truck drivers, aviation workers) have been regulated by the US Department of Transportation since the 1930s. NHTSA reports that fatigue impairs performance of repetitive tasks, such as driving, by reducing vigilance, slowing reaction time and creating deficits in information processing. Engineers at the University of North Florida studied bus drivers and found that more collisions occurred with an increase in weekly driving hours. The American Automobile Association Foundation reports that fatigued drivers are involved in 20 percent of fatal crashes nationally.

The population of active TLC-licensed drivers affected by the limits in the new rule is small: only three percent of drivers for hire in New York City typically drive more than 12 hours per day and less than seven percent typically drive more than 72 hours in a week. Therefore most drivers would not need to modify their working hours to comply with these rules. There is a small population of drivers whose current hours put them most at risk for fatigued driving and for whom it is particularly important to reduce working hours: the roughly one percent of drivers who drive more than 14 hours in a day and the three percent who exceed 80 hours in a week.

To enforce the rule, TLC will review trip records submitted by Medallion and Boro Taxis, as well as for-hire vehicle bases, to calculate the hours in which a driver is picking up passengers in any 24-hour or seven-day period. Trips by a driver who accepts dispatches from multiple bases, or who operates both taxis and for-hire vehicles, will be combined to determine the total number of hours worked. Bases will only be responsible for trips that they dispatch, not dispatches that their affiliated drivers accept through other bases or street hails accepted by Boro Taxis (e.g., if Base A dispatches a driver to do pickups for nine hours in a 24-hour period and Base B dispatches a driver to do pickups for an additional six hours in the same 24-hour period, then only the driver is in violation of the daily limit, not the two bases).

Given the wide range of driving schedules among the more than 140,000 TLC-licensed drivers in New York City, it is important to create clear, consistent, and enforceable rules. This rule will serve as one of many tools for the TLC to combat the complex challenge of driver fatigue. In addition to broad-based outreach to licensees to explain these rules, TLC will expand its current driver education and training materials to include strategies to combat driver fatigue, including the benefits of breaks and the importance of getting adequate rest. Moreover, in order to foster compliance with these safety measures, TLC will begin implementation of these rules by issuing warnings to drivers who exceed the daily or weekly limits. By drawing on all of these tools, TLC seeks to ensure that drivers have enough time to rest prior to transporting passengers for hire and thus help move the city a step closer to achieving Vision Zero.

This rule is authorized by Section 2303 of the New York Charter and Section 19-503 of the Administrative Code.

New material is underlined.

[Material inside brackets indicates deleted material.]

Section 1. Section 51-03 of Title 35 of the Rules of the City of New York is amended by adding the definition of “Associated Base”, in alphabetical order, to read as follows:

**Associated Base** is a For-Hire Base using the same name or trade, business, or operating name as another For-hire Base.

Section 2. Subdivision (d) of section 54-14 of Title 35 of the Rules of the City of New York is amended to read as follows:

(d) Limits on [Consecutive] Hours of Driving. [A Driver must not operate a Vehicle for more than 12 consecutive hours.]

(i) Generally. A Driver must not pick up any passenger(s) for hire in excess of the daily and weekly limits detailed in this subdivision.

A Any hour of the day or week that contains at least one pick-up of any passenger(s) for hire will be counted as one full hour toward the daily or weekly limit, regardless of the duration of the trip. If a Driver does not pick up any passenger(s) for hire during an hour (for example, because the Driver is taking a break), then such hour will not count toward the daily or weekly limit.

B The hours in which any pickups occur do not need to be consecutive in order to count toward the daily or weekly limit.

C To determine whether a Driver is in violation of this subdivision, any pickups that a Driver makes while operating a Vehicle pursuant to this Chapter will be combined with any pickups such Driver makes while operating a Vehicle pursuant to Chapter 55.

D Any violation of the daily limit cannot also serve as a basis for a violation of the weekly limit.

(ii) Daily Limit. A Driver must not pick up any passenger(s) for hire in more than 12 hours in total in any 24-hour period. EXCEPTION: If a Driver picks up no passengers for hire for at least eight consecutive hours, the 12-hour count resets and such Driver may resume picking up passengers for hire.

§54-14(d)(ii)	[ <del>\$25</del> ] <u>Hours above the daily limit:</u>  <u>1 hour:</u> <u>If the limit is exceeded by one hour three times in any 7-day period: \$50 if plead guilty before a hearing; and \$75 if found guilty following a hearing.</u> <u>If the limit is exceeded by one hour for the fourth or subsequent time in any 7-day period: \$50 if plead guilty before a hearing; and \$75 if found</u>	Appearance NOT REQUIRED
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	<u>guilty following a hearing.</u>  <u>2 hours: \$50 if plead guilty before a hearing; and \$75 if found guilty following a hearing.</u>  <u>3-4 hours: \$100 if plead guilty before a hearing; and \$150 if found guilty following a hearing.</u>  <u>5 hours or more: \$200 if plead guilty before a hearing; and \$300 if found guilty following a hearing.</u>  <u>If guilty of three or more violations in a calendar month for exceeding the daily limit by three or more hours, penalty shall also include a suspension of at least 5 days but no more than 15 days.</u>	
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(iii) Weekly Limit. A Driver must not pick up any passenger(s) for hire in more than 72 hours in total in any seven-day period.

<u>§54-14(d)(iii)</u>	<u>Hours above the weekly limit:</u>  <u>1 hour, if the limit is exceeded three or more times in a calendar month: \$50 if plead guilty before a hearing; and \$75 if found guilty following a hearing.</u>  <u>2 hours: \$50 if plead guilty before a hearing; and \$75 if found guilty following a hearing.</u>  <u>3-4 hours: \$100 if plead guilty before a hearing; and \$150 if found guilty following a hearing.</u>  <u>5 hours or more: \$200 if plead guilty before a hearing; and \$300 if found guilty following a hearing.</u>  <u>If guilty of three or more violations in a calendar month for exceeding the weekly limit by three or more hours, penalty shall also include a suspension of at least 5 days but not more than 15 days.</u>	<u>Appearance NOT REQUIRED</u>
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Section 3. Section 55-14 of Title 35 of the Rules of the City of New York is amended by adding a new subdivision (i), to read as follows:

(i) Limits on Hours of Driving.

(i) Generally. A Driver must not pick up any passenger(s) for hire in excess of the daily and weekly limits detailed in this subdivision.

- A Any hour of the day or week that contains at least one pick-up of any passenger(s) for hire will be counted as one full hour toward the daily or weekly limit, regardless of the duration of the trip. If a Driver does not pick up any passenger(s) for hire during an hour (for example, because the Driver is taking a break), then such hour will not count toward the daily or weekly limit.
- B The hours in which any pickups occur do not need to be consecutive in order to count toward the daily or weekly limit.
- C To determine whether a Driver is in violation of this subdivision, any pickups that a Driver makes while operating a Vehicle pursuant to this Chapter will be combined with any pickups such Driver makes while operating a Vehicle pursuant to Chapter 54.
- D Any violation of the daily limit cannot also serve as a basis for a violation of the weekly limit.

(ii) Daily Limit. A Driver must not pick up any passenger(s) for hire in more than 12 hours in total in any 24-hour period. EXCEPTION: If a Driver picks up no passengers for hire for at least eight consecutive hours, the 12-hour count resets and such Driver may resume picking up passengers for hire.

§55-14(i)(ii)	<u>Hours above the daily limit:</u>  <u>1 hour:</u> <u>If the limit is exceeded by one hour three times in any 7-day period: \$50 if plead guilty before a hearing; and \$75 if found guilty following a hearing.</u> <u>If the limit is exceeded by one hour for the fourth or subsequent time in any 7-day period: \$50 if plead guilty before a hearing; and \$75 if found guilty following a hearing.</u>  <u>2 hours: \$50 if plead guilty before a hearing; and \$75 if found guilty following a hearing.</u>  <u>3-4 hours: \$100 if plead guilty before a hearing; and \$150 if found guilty following a hearing.</u>  <u>5 hours or more: \$200 if plead guilty before a hearing; and \$300 if found guilty following a hearing.</u>  <u>If guilty of three or more violations in a calendar month for exceeding the daily limit by three or more hours, penalty shall also include a suspension of at least 5 days but no more than 15 days.</u>	<u>Appearance NOT REQUIRED</u>
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(iii) Weekly Limit. A Driver must not pick up any passenger(s) for hire in more than 72 hours in total in any seven-day period.

§55-14(i)(iii)	<u>Hours above the weekly limit:</u>	<u>Appearance NOT REQUIRED</u>
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	<p><u>1 hour, if the limit is exceeded three or more times in a calendar month: \$50 if plead guilty before a hearing; and \$75 if found guilty following a hearing.</u></p> <p><u>2 hours: \$50 if plead guilty before a hearing; and \$75 if found guilty following a hearing.</u></p> <p><u>3-4 hours: \$100 if plead guilty before a hearing; and \$150 if found guilty following a hearing.</u></p> <p><u>5 or more: \$200 if plead guilty before a hearing; and \$300 if found guilty following a hearing.</u></p> <p><u>If guilty of three or more violations in a calendar month for exceeding the weekly limit by three or more hours, penalty shall also include a suspension of at least 5 days but no more than 15 days.</u></p>	
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Section 4. Section 59B-18 of Title 35 of the Rules of the City of New York is amended by adding a new subdivision (e), to read as follows:

(e) Limits on Hours of Driving.

(i) Generally. A Base must not dispatch a Driver to pick up any passenger(s) for hire in excess of the daily and weekly limits detailed in this subdivision.

A Any hour of the day or week that contains at least one pick-up of any passenger(s) for hire will be counted as one full hour toward the daily or weekly limit, regardless of the duration of the trip. If a Driver does not pick up any passenger(s) for hire during an hour (for example, because the Driver is taking a break), then such hour will not count toward the daily or weekly limit.

B The hours in which any pickups occur do not need to be consecutive in order to count toward the daily or weekly limit.

C Any violation of the daily limit cannot also serve as a basis for a violation of the weekly limit.

(ii) Daily Limit. A Base or Associated Base must not dispatch a Driver to pick up any passenger(s) for hire in more than 12 hours in total in any 24-hour period. EXCEPTION: If a Base or Associated Base does not dispatch a Driver to pick up passengers in at least eight consecutive hours, the 12-hour count resets and such Base or Associated Base can resume dispatching such Driver to pick up passengers for hire.

<u>§59B-18(e)(ii)</u>	<u>\$200</u>	<u>Appearance NOT REQUIRED</u>
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(iii) Weekly Limit. A Base or Associated Base must not dispatch a Driver to pick up any passenger(s) for hire in more than 72 hours in total in any seven-day period.

<u>§59B-18(e)(iii)</u>	<u>\$200</u>	<u>Appearance NOT REQUIRED</u>
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