

## **DISTRICT OF COLUMBIA TAXICAB COMMISSION**

### **NOTICE OF PROPOSED RULEMAKING**

The District of Columbia Taxicab Commission (Commission), pursuant to the authority set forth in sections 8(b)(1) (C), (D), (E), (F), (G), (I), (J), 14, and 20 of the District of Columbia Taxicab Commission Establishment Act of 1985 (“Establishment Act”), effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code §§ 50-307(b)(1) (C), (D), (E), (F), (G), (I), (J) and 50-319 (2009 Repl.), and D.C. Official Code § 50-313 (2009 Repl.; 2012 Supp.); D.C. Official Code § 47-2829 (b), (d), (e), (e-1), and (i) (2012 Supp.); section 12 of the 1919 District of Columbia Taxicab Act, approved July 11, 1919 (41 Stat. 104; D.C. Official Code § 50-371 (2009 Repl.)); and section 6052 of the District of Columbia Taxicab Commission Fund Amendment Act of 2012 (“Commission Fund Amendment Act”), effective September 20, 2012 (amending D.C. Official Code § 50-320(a)) hereby gives notice of proposed rulemaking action taken on January 30, 2013, to establish a new Chapter 14 (Operation of Sedans) of Title 31 (Taxicabs and Public Vehicles for Hire) of the District of Columbia Municipal Regulations (DCMR).

Through this Notice, the Commission invites public comments prior to the publication of a Notice of Proposed Rulemaking in the *D.C. Register*. Directions for submitting comments may be found at the end of this Notice. The Commission also hereby gives notice of the intent to take final rulemaking action to adopt these proposed rules in not less than thirty (30) days after the publication of this notice in the *D.C. Register*.

**The Commission intends to add Chapter 14, OPERATION OF SEDANS of Title 31, TAXICABS AND PUBLIC VEHICLES FOR HIRE, of the DCMR to read as follows:**

#### **CHAPTER 14    OPERATION OF SEDANS**

##### **1400            APPLICATION AND SCOPE**

- 1400.1            The purpose of this Chapter is to establish substantive rules governing the operation of sedans in the District of Columbia, including rules to ensure the safety of passengers and operators, for consumer protection, and to collect a passenger surcharge.
- 1400.2            The provisions of this Chapter shall be interpreted to comply with the language and intent of the District of Columbia Taxicab Commission Establishment Act of 1985, D.C. Official Code §§ 50-301 *et seq.* (2012 supp.).
- 1400.3            In the event of a conflict between a provision of this Chapter and a provision of another Chapter of this Title, the more strict provision shall control.

##### **1401            GENERAL PROVISIONS**

- 1401.1            Effective May 1, 2013, sedan service in the District of Columbia shall be provided only through the use of an Office of Taxicab (“Office”)-approved SPS

that books all sedan trips using digital dispatch, processes all payments using digital payment, and collects the passenger surcharge for each trip.

- 1401.2 Any vehicle operated as a sedan in violation of this Chapter shall be subject to the penalties in § 1405, including impoundment of the vehicle pursuant to D.C. Official Code § 50-331 (2012 Supp.).
- 1401.3 A digital dispatch service (“DDS”) may seek approval from the Office under the review process of § 1403 of one or more proposed SPSs that meet the requirements of § 1402.
- 1401.4 All costs connected with an SPS, including development, obtaining approval by the Office of Taxicabs, installation, operation, repair, lease, service and support, maintenance, and upgrade shall be the responsibility of the owner or operator of the vehicle, as may be allocated by a written agreement, but may be paid in whole or in part by a DDS or any other person or entity.
- 1401.5 Each operator, vehicle, and organization providing sedan class service shall at all times be in compliance with the provisions of Chapter 12 of this Title (Sedan and Limousine Operators, Vehicles, and Organizations).
- 1401.6 Each DDS providing service and support for an SPS shall at all times be in compliance with the provisions of Chapter 16 of this Title (Dispatch Services).
- 1401.7 Owner surcharge account. Unless a vehicle owner associates with a DDS whose Office-approved sedan payment system includes an approval to maintain a surcharge account on behalf of associated owners under § 1402.2(c), an owner of one or more vehicles proposed to be operated as sedans shall maintain a surcharge account at the Office meeting the following requirements:
- (a) The account shall be opened at the Office of Taxicabs (“Office”) with an initial deposit of one-thousand dollars (\$1,000.00) per vehicle no later than fourteen (14) days after the owner associates with an SPS approved under DDS to use an Office-approved SPS for a vehicle it owns;
  - (b) The owner shall maintain with the Office current and valid account information for a payment card, or a checking or savings account of a federally-insured financial institution to which the Office may post charges necessary to maintain the surcharge account at the levels required by this Section;
  - (c) The Office shall keep each surcharge account in a federally-insured financial institution that does business in the District in a bank account containing only surcharge accounts and bearing interest;

- (d) The owner shall ensure that the surcharge account at all times has a minimum balance of seven-hundred fifty dollars (\$750.00) per vehicle;
- (e) The Office shall assume that each vehicle is recording two-hundred (200) fare-paying trips per month and shall deduct from the surcharge account the sum of one-hundred dollars (\$100.00) at the end of each month;
- (f) The Office may, at any time, deduct from the surcharge account any additional amount necessary to bring the surcharge account into compliance with this Section based on the trip data from the SPS, and the owner may, within fifteen (15) days thereafter, request a reconsideration of such action, which shall be ruled upon by the Office within thirty (30) days;
- (h) The owner may, at any time, using a form provided by the Office, request a reconciliation of its account, if it believes the account contains more than one-hundred fifty (150) percent of the minimum balance he or she is required to maintain, which shall be ruled upon by the Office within thirty (30) days; and
- (i) The balance of a surcharge account corresponding to a specific vehicle shall be refunded to the vehicle owner within thirty (30) days following an event that results in such vehicle no longer being licensed by the Office for use as a sedan, and if the surcharge account does not extend to any other vehicles, the surcharge account shall also be closed at such time.

## **1402 REQUIREMENTS FOR SEDAN PAYMENT SYSTEMS**

1402.1 SPS equipment requirements. An SPS shall incorporate any reasonable combination of fixed or mobile hardware technology components, such as a Bluetooth-enabled Smartphone, mobile data terminal, or tablet, with an attached or integrated credit card reader, and shall:

- (a) Allow the DDS to validate the operator as required by § 1402.2 (b)(1);
- (b) Collect and allow the DDS to report the electronic trip data required by § 1402.2 (b)(2);
- (c) Allow the DDS to report and process the information required by § 1402.2 (b)(3) to enable the Office to collect the passenger surcharge for each sedan trip;
- (d) Allow the operator to accept each digital dispatch;
- (e) Allow the DDS to process each digital payment;

- (f) Print paper receipts and, if the passenger chooses, allow the operator to trigger the sending of an electronic receipt no later than when the passenger exits the vehicle containing at least: date and time of the trip; mileage of trip; the name of the DDS; the vehicle's PVIN; the operator's name; the origination and destination of the trip, and a breakdown of the total fare paid, including all fees and charges, and any gratuity; and
- (g) Not allow the operator to store or access the passenger's payment information.

1402.2 SPS service and support requirements. Each SPS shall operate in combination with a single DDS that shall:

- (a) Maintain with the Office an inventory of vehicles and operators that meets the following requirements:
  - (1) An initial inventory shall be filed with the application for review under § 1403;
  - (2) After the approval of the SPS, the DDS shall maintain the inventory to insure that it is current and accurate through such means and at such times as required by the Office;
  - (3) For each vehicle associated with the SPS, the inventory shall contain: the name of and contact information for its owner(s) including work, home, and cellular telephone numbers; the vehicle's PVIN, make, model, and year of manufacture; a certification that the vehicle is in compliance with Chapter 9 of this Title (Insurance); an indication of whether the vehicle is wheelchair accessible; an indication of whether the vehicle is in active use; and, if the vehicle is associated with a sedan organization, the name of and contact information for such organization;
  - (4) For each operator associated with the SPS, the inventory shall contain: the name of and contact information for such operator including work, home, and cellular telephone numbers; the number of his or her operator's license issued by the Office; an indication of whether such operator is actively using the SPS; and, if he or she is associated with a sedan organization, the name of and contact information for such organization; and
  - (5) The Office may remove a vehicle or operator from an inventory at any time with reasonable notice to the DDS if such vehicle or operator is not legally authorized or permitted to operate; and

- (b) Maintain a data connection to the SPS equipment used in each vehicle that shall do all of the following:
  - (1) Validate the status of the operator license issued by the Office in real-time by connecting to the Office's Back Office Management Information System ("BOMIS"), to ensure the license is not revoked or suspended, and that the operator is in compliance with Chapter 9 of this Title (Insurance);
  - (2) Report to the Office every twenty-four (24) hours via a single data feed electronic trip data, which means geospatially marking the pick-up, drop-off and current taxicab location information, and capturing and transmitting to the BOMIS in a data structure consistent across all DDSs as established by the Office, the following information:
    - (A) The date,
    - (B) Anonymously-reported but unique operator license number, PVIN, and vehicle tag number;
    - (C) The name of the sedan organization with which the vehicle or operator is associated, if applicable;
    - (D) The time at the beginning of the tour of duty;
    - (E) The time and mileage of each trip;
    - (F) The geospatially-recorded place of origin of each trip, generalized to census tract level;
    - (G) The number of passengers;
    - (H) The time at the end of the tour of duty;
    - (I) The unique trip number; and
    - (J) The total fare paid, including all fares and charges, and any gratuity; and
  - (3) Process and report to the BOMIS the information needed for the Office to receive the passenger surcharge for each sedan trip by debiting the vehicle owner's surcharge account or, if maintained pursuant to § 1402.2 (c), by debiting the DDS surcharge account; and

- (c) If the DDS receives approval from the Office to do so as part of the SPS review process in § 1403, maintain a DDS surcharge account on behalf of its associated vehicle owners meeting the following requirements:
- (1) The account shall be opened at the Office with an initial deposit of ten-thousand dollars (\$10,000.00), plus one-thousand dollars (\$1,000.00) per vehicle for each vehicle on the vehicle inventory no later than fourteen (14) days after the Office approves the SPS;
  - (2) The DDS shall maintain with the Office current and valid account information for a payment card, or a checking or savings account of a federally-insured financial institution to which the Office may post charges necessary to maintain the surcharge account at the levels required by this Subsection;
  - (3) The Office shall keep each DDS surcharge account in a federally-insured financial institution that does business in the District in a bank account containing only surcharge accounts and bearing interest;
  - (4) The DDS shall ensure that its account maintains a minimum balance of ten-thousand dollars (\$10,000.00), plus seven-hundred fifty dollars (\$750.00) for each vehicle on the vehicle inventory;
  - (5) The Office shall assume that each vehicle is recording two-hundred (200) fare-paying trips per month and shall deduct from the surcharge account the sum of one-hundred dollars (\$100.00) at the end of each month for each vehicle on the vehicle inventory at that time;
  - (6) The Office may, at any time, deduct from the surcharge account any additional amount necessary to bring the surcharge account into compliance with this Subsection based on the trip data from the SPS, and the DDS may, within fifteen (15) days thereafter, request a reconsideration of such action, which shall be ruled upon by the Office within thirty (30) days;
  - (7) The DDS may, at any time, using a form provided by the Office, request a reconciliation of its account, if it believes the account contains more than one-hundred fifty (150) percent of the minimum balance it is required to maintain, which shall be ruled upon by the Office within thirty (30) days; and
  - (8) The balance of a surcharge account corresponding to a specific vehicle shall be refunded to the DDS within thirty (30) days following an event that results in such vehicle no longer being

licensed by the Office for use as a sedan, and if the surcharge account does not extend to any other vehicles, the surcharge account shall also be closed at such time.

## **1403 REVIEW PROCESS FOR PROPOSED SEDAN PAYMENT SYSTEMS**

- 1403.1 An authorized representative of a DDS may apply for approval of one or more proposed SPSs by filing an application with the Office under penalty of perjury, paying the applicable fee of one-thousand dollars (\$1,000.00) for each SPS, and providing:
- (a) Its name and contact information, and the name(s) of and contact information for its associated sedan vehicle owners and operators;
  - (b) Information and documentation demonstrating that the SPS meets the equipment requirements in § 1402.1;
  - (c) Information and documentation demonstrating that the SPS meets the service and support requirements in § 1402.2;
  - (d) Information and documentation about the forms of digital dispatch and digital payment that the SPS will offer to passengers;
  - (e) An indication of whether the DDS proposes to maintain a DDS surcharge account on behalf of its associated vehicle operators pursuant to § 1402.2 (c), and, if so, a bank certification reflecting its ability to comply with the DDS surcharge account initial deposit requirement;
  - (f) Its initial vehicle inventory pursuant to § 1402.2 (a);
  - (g) A blank sample of the operating agreement the DDS uses to associate with sedan organizations and operators; and
  - (h) Such other information and documentation as the Office may require at the time of application or during the review process to determine that the SPS will meet all the requirements of this Chapter.
- 1403.2 Throughout the review process, the DDS shall bear the burden of establishing to the satisfaction of the Office that the proposed SPS will meet all the requirements of § 1402.
- 1403.3 The Office shall complete its review and issue its decision approving or rejecting each SPS, including its decision whether the DDS is approved to maintain a surcharge account on behalf of its associate operators pursuant to § 1402.2 (c), within fourteen (14) days, provided however, that such period may be extended by the Office for no more than ten (10) additional days at the Office request, and

that the Office shall not be required to have pending at any one time applications for review and approval of more than five (5) SPS systems (without regard to the number of applications) and may hold in abeyance its review of any applications over this number for such time as is necessary in order to remain within this limit.

- 1403.4 The applicant shall cooperate with Office staff throughout the review process, including at a scheduled demonstration of its SPS equipment. An application may be rejected by the Office if the applicant does not cooperate in a timely and reasonable manner at the demonstration(s) or at any other point in the review process. The Office may deny an application that contains or as to which materially false information is provided orally or in writing in order to induce approval.
- 1403.5 The Office may arrange one (1) demonstration of the SPS equipment, where the Office technical staff shall have the opportunity to examine and test the equipment and ask questions of the DDS's technical staff, who shall attend the demonstration. An applicant shall be given the opportunity for one (1) additional demonstration upon a showing of good cause, or if required by the Office.
- 1403.6 An approval of an SPS shall continue in effect for twelve (12) months, during which time no substantial change may be made without written approval from the Office. A DDS shall promptly inform the Office of a proposed substantial change that would require written approval.
- 1403.7 Each approved SPS shall be listed on the Commission's Website promptly following approval and shall remain listed until such approval is no longer effective. The listing shall include an indication of whether the DDS offering the SPS maintains a surcharge account on behalf of its associated operators.
- 1403.8 Each approved SPS shall be submitted for re-approval at least sixty (60) days prior to the expiration of the approval, unless the Office provides otherwise in writing. Re-approval shall require compliance with the procedures in this Section for an approval of a new SPS, except to the extent the Office does not so require. An approval shall continue in force and effect beyond its expiration period during such time as an application for re-approval is pending in proper form.
- 1403.9 Approval of an SPS may be suspended or revoked at any time by the Office with reasonable advance notice under the circumstances to the DDS if the Office acquires information that the SPS no longer meets the requirements of Chapter, that the owners or operators associated with it are not in substantial compliance with this Title or other applicable law, provided however, that the approval of an SPS may be suspended immediately by the Chairman of the Commission without prior notice but with prompt notice thereafter if the Office acquires information that the SPS or the owners or operators associated with it are in such non-compliance with this Title or other applicable law so as to pose a significant threat to public or operator safety, or consumer protection.



- 1403.10 If the Office denies an application for approval of an SPS on any ground, it shall state the reasons for its decision in writing. A denial shall be based on a full and fair consideration of all information and documentation presented by the applicant, including the demonstration(s).
- 1403.11 A denial may be appealed to the Chairman of the Commission within fifteen (15) business days, and, otherwise, shall constitute a final decision of the Office. The Chairman shall issue a decision on an appeal within thirty (30) days. A timely appeal of a denial shall extend an SPS's existing approval pending the Chairman's decision on the appeal. A decision of the Chairman to affirm or reverse a denial shall constitute a final decision of the Office. A decision of the Chairman to remand a denial pending further review shall extend an SPS's existing approval pending the final decision of the Office.

#### **1404 PROHIBITIONS**

- 1404.1 No person or entity may provide or attempt to provide sedan service in the District of Columbia other than in compliance with the provisions of this Chapter, and all applicable provisions of Chapters 12 and 16 of this Title.
- 1404.2 No vehicle operator may process or collect a fare or charge that does not comply with the rates and charges set forth in § 1401.7.
- 1404.3 A vehicle owner or operator shall not be paid for a sedan trip if the vehicle or the operator was not on the DDS vehicle inventory required by § 1402.2 (a) when the digital dispatch was initiated by the passenger.
- 1404.4 No operator may pick up or transport a passenger if the SPS printer component is not functioning as required.
- 1404.5 No owner or operator may alter or tamper a component of the SPS or make any change in the vehicle that prevents the SPS from operating in conformity with the SPS approval granted by the Office.
- 1404.6 No operator may operate a vehicle as a sedan with an SPS that has been tampered with, broken, or altered. The operation of a sedan with a tampered, broken, or altered SPS shall give rise to a rebuttable presumption that the operator knew of the tampering, breaking, or alteration.
- 1404.7 No operator may provide sedan service other than through a digital dispatch processed by an SPS.
- 1404.8 No operator may be paid for sedan service other through a digital payment process by an SPS.

1404.9 An operator shall pick up a passenger at the time and location provided in the digital dispatch.

1404.10 Operators shall be in compliance with all applicable provisions of this Title, and all other laws applicable to public vehicles-for-hire, including all reciprocal agreements between governmental bodies in the Washington Metropolitan Area governing public vehicle-for-hire service such as those in § 828 of this Title.

## **1405 PENALTIES**

1405.1 Each violation of this Chapter by a sedan or limousine organization, independent owner, or operator, shall subject the violator to:

- (a) A civil fine of two hundred fifty (\$250) dollars, , provided, however, that a fine of one-hundred dollars (\$100.00) shall be assessed for each day or fraction thereof on which a vehicle was operated when the company or operator knew or should have known that the passenger surcharge was not being collected;
- (b) Suspension, revocation, or non-renewal of the operator's license, or the suspension, revocation, or non-renewal of the company's operating authority;
- (c) Impoundment of each vehicle found to be operating with an SPS the approval of which has been suspended, revoked, or not renewed;
- (d) Confiscation of any SPS equipment used in violation of this Chapter Section; or
- (e) A combination of the sanctions enumerated in this Section.

1405.2 Each violation of this Chapter by a DDS or individual authorized to act on its behalf shall be subject the DDS to:

- (a) A civil fine of five hundred (\$500) dollars, provided, however, that a fine of five-hundred dollars (\$500.00) shall be assessed for each day or fraction thereof on which the DDS's SPS was used to process a fare for a trip and the DDS or its agents or employees knew or should have known that the passenger surcharge was not being collected for such trip;
- (b) Suspension, revocation, or non-renewal of the approval of the SPS associated with the DDS; or
- (c) Impoundment of each vehicle found to be operating with an SPS the approval of which has been suspended, revoked, or not renewed, pursuant to the provisions of the Taxicab and Passenger Vehicle for Hire

Impoundment Act of 1992, effective March 16, 1993 (D.C. Law 9-199; D.C. Official Code § 50-331) (2011 Supp.);

- (d) Confiscation of any SPS equipment used in violation of this Chapter; or
- (e) A combination of the sanctions enumerated in this Section.

## **1406 ENFORCEMENT OF THIS CHAPTER**

- 1406.1 The enforcement of any provision of this Chapter shall be governed by the procedures set forth in Chapter 7 of this Title.

## **1499 DEFINITIONS**

- 1499.1 The terms “sedan,” “limousine,” “owner,” and “operator” shall have the meanings ascribed to them in Chapter 12 of this Title.
- 1499.2 The terms “dispatch,” “digital dispatch,” “digital dispatch service,” “DDS,” and “digital payment” shall have the meanings ascribed to them in Chapter 16 of this Title.
- 1499.3 The term “cashless payment” shall have the meaning ascribed to it in Chapter 6 of this Title.
- 1499.4 The following words and phrases shall have the meanings ascribed:
- “Associated” connotes a voluntary relationship of employment, contract, ownership, or other legal affiliation. For purposes of this Chapter, an association not in writing shall be ineffective for compliance purposes.
- “Passenger surcharge” means a twenty-five cent (\$.25) surcharge required to be collected and remitted to the Office for each trip in a sedan.

Copies of the intended rulemaking can be obtained at [www.dcregs.dc.gov](http://www.dcregs.dc.gov) or by contacting Jacques Lerner, General Counsel and Secretary to the Commission, District of Columbia Taxicab Commission, 2041 Martin Luther King, Jr., Avenue, S.E., Suite 204, Washington, D.C. 20020. All persons desiring to file comments on the intended rulemaking should submit written comments via e-mail to [dctc@dc.gov](mailto:dctc@dc.gov) or by postal mail or hand delivery to the DC Taxicab Commission, 2041 Martin Luther King, Jr., Ave., S.E., Suite 204, Washington, D.C. 20020, Attn: Jacques Lerner, Interim General Counsel and Secretary to the Commission, prior to the publication of a superseding Notice of Proposed Rulemaking in the *D.C. Register*.