

DISTRICT OF COLUMBIA TAXICAB COMMISSION

NOTICE OF SECOND PROPOSED RULEMAKING

The District of Columbia Taxicab Commission (“Commission”), pursuant to the authority set forth in Sections 8(c)(2), (3), (4), (5), (7), (19), 14, 20, and 20a 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(c)(2) (3), (4), (5), (7), (19)), 50-313, 50-319, and 50-320 (2012 Repl. & 2013 Supp.)), and D.C. Official Code § 47-2829 (b), (d), (e), (e-1), and (i) (2012 Repl. and 2013 Supp.); hereby gives notice of its intent to adopt amendments to Chapter 8 (Operation of Taxicabs) of Title 31 (Taxicabs and Public Vehicles for Hire) of the District of Columbia Municipal Regulations (DCMR).

The amendments to Chapter 14, in combination with the new Chapter 99 and proposed amendments to Chapters 12, 14, 16, and 17 of Title 31, create a regulatory framework for the licensing and regulation of a new class of public vehicle-for-hire service to be called “private sedan service”, to address the unique issues raised by private sedan service, including rules to require adequate insurance, to ensure the safety of passengers, drivers, and the general public, to protect consumers, to require payment to the District of a passenger surcharge, and for other lawful purposes within the authority of the Commission. The proposed amendments to Chapter 8 would allow digital dispatch services (not taxicab owners or operators) to set the entire fare when dispatching a taxicab, without use of the metered rates set by the Commission, while requiring the operator to continue to use the modern taximeter system to ensure that payment service providers continue to report trip data to the Office of Taxicabs (“Office”) for dispatched trips, for enforcement, research, passenger surcharge reconciliation, and other lawful purposes.

All definitions applicable to this chapter appear in the new Chapter 99 that contains definitions for the entire title.

The original proposed rulemaking was adopted by the Commission on April 9, 2014 and published in the D.C. Register on May 9, 2014 at 61 DCR 4737. The Commission held a public hearing on the proposed rules on April 30, 2014, to receive oral comments on the proposed rules. The Commission received valuable comments from the public at the hearing and throughout the comment period which expired on June 15, 2014. The comments received were carefully considered and necessitate a second publication. The second proposed rulemaking was adopted by the Commission on August 6, 2014.

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 of second proposed rulemaking in the D.C. Register.

Chapter 14, OPERATION OF SEDANS, of Title 31, TAXICABS AND PUBLIC VEHICLES FOR HIRE, of the DCMR is deleted.

A new Chapter 14, OPERATION OF BLACK CARS AND PRIVATE SEDANS is added as follows:

CHAPTER 14 OPERATION OF BLACK CARS AND PRIVATE SEDANS

1400 APPLICATION AND SCOPE

- 1400.1 This chapter establishes licensing and operating requirements applicable to the businesses and individuals that provide black car service and private sedan service, to ensure the safety of passengers, operators, and the general public, to protect consumers, to require the collection of and payment to the District of Columbia of a passenger surcharge, and for other lawful purposes.
- 1400.2 The provisions of this chapter shall be interpreted to comply with the language and intent of the Establishment Act, as amended.
- 1400.3 Additional requirements for the owners, operators, and vehicles that participate in black car service are contained in Chapter 12.
- 1400.4 Additional requirements for the private sedan businesses, operators, and vehicles that participate in black car service are contained in Chapter 17.
- 1400.5 Additional requirements for digital dispatch services are contained in Chapter 16.
- 1400.6 This chapter shall not apply to “ridesharing”, as defined in this title.
- 1400.7 This chapter shall apply to private sedan service beginning on _____ 2014 (“implementation date”).
- 1400.8 In the event of a conflict between a provision of this chapter and a provision of another chapter of this title, the more restrictive provision shall control.

1401 GENERAL PROVISIONS

- 1401.1 Each trip by a black car and, beginning on the implementation date, each trip by a private sedan, in the District of Columbia shall meet the following requirements, in addition to other requirements stated in this chapter:
- (a) It shall be booked through a digital dispatch and paid for by a digital payment processed by a digital dispatch service which is in compliance with Chapter 16 and this chapter;
 - (b) The operator and vehicle shall be on the inventory of active operators and vehicles maintained with the Office by the DDS (for black cars) and by the private sedan business (for private sedans);

- (c) The operator and the vehicle shall be in compliance with this chapter and Chapter 17, including all licensing and insurance requirements; and
- (d) The passenger surcharge shall be paid to the District.

1402 OPERATING REQUIREMENTS

- 1402.1 Each black car owner, operator, and vehicle shall, at all times, be in compliance with all applicable provisions of this chapter and Chapter 12.
- 1402.2 Each private sedan operator and vehicle shall at all times be in compliance with all applicable provisions of this chapter and Chapter 17.
- 1402.3 Each operator shall be associated with a single DDS which is in compliance with the provisions of Chapter 16, including adhering to the registration requirement of that chapter, and of this chapter.
- 1402.4 Each operator shall provide black car or private sedan service using a digital payment system (“DPS”) unit which complies with Chapter 16.
- 1402.5 Each operator and vehicle shall provide service only at such times when both the operator and the vehicle are on the appropriate inventory of active operators and vehicles maintained with the Office.
- 1402.6 Each operator and owner shall cooperate with the Office and District enforcement officials, including all compliance orders issued orally by public vehicle inspection officers (hack inspectors), and in writing by the Office. Failure to timely and fully comply with a compliance order shall subject to the civil penalties provided in this title.
- 1402.7 Each operator shall comply with the following documentation requirements:
 - (a) Each operator shall at all times while associated with a DDS and operating a vehicle used as a black car or private sedan, carry on his or her person or have readily available inside the vehicle, the following documents:
 - (1) The operator’s personal driver’s license;
 - (2) The registration for the vehicle;
 - (3) The operator’s DCTC operator’s license identification card or private sedan operator’s identification card; and

- (4) Such insurance cards as are necessary to document that the operator and the vehicle are in compliance with all applicable insurance requirements.
- (b) As an alternative means of compliance with § 1402.7(a)(3) and (4), an operator may present for inspection by a District enforcement official one or more detailed images on the digital payment system (the app) which accurately depicts the required documents if the DDS chooses to offer this service, provided however, that:
 - (1) It shall not be a defense in any enforcement action that an image of a required document was unavailable at the time of an inspection; and
 - (2) Nothing in this subsection shall relieve an operator of an obligation under regulations issued by agencies other than DCTC.
- (c) Each private sedan vehicle shall at all times clearly display the DCTC private sedan vehicle decal required by Chapter 17 in a suitable location as directed by the Office.

1402.8 Each black car owner and operator shall comply with the following insurance requirements:

- (a) Each black car owner, operator, and vehicle shall at all times be in full compliance with the insurance requirements of Chapter 9. Each black car owner or operator that fails to comply with applicable insurance requirements shall be subject to the civil penalties in § 907 for failure to maintain commercial insurance.
- (b) Each private sedan operator and vehicle shall at all times be in full compliance with the insurance requirements of Chapter 17. Each private sedan operator who fails to comply with applicable insurance requirements shall be subject to the following civil penalties:
 - (1) First offense: immediate suspension for six (6) months, and a one thousand five hundred dollar (\$1,500) civil fine; and
 - (2) Second offense: immediate suspension, revocation, and a three thousand dollar (\$3,000) civil fine.

1402.9 Each trip by black car or private sedan shall comply with the following booking and payment requirements:

- (a) Each trip by black car or private sedan shall be booked through a digital dispatch and be paid for by a digital payment, both of which shall be processed by the DDS using its DPS (smartphone or tablet, and app).
- (b) Each black car or private sedan operator who solicits or accepts a street hail shall be subject to the following civil penalties:
 - (1) First offense: immediate suspension for three (3) months, and a one thousand dollar (\$1,000) civil fine; and
 - (2) Second offense: immediate suspension, revocation, and a two thousand dollar (\$2,000) civil fine.
- (c) Each black car or private sedan operator who engages in false dispatch shall be subject to the following civil penalties:
 - (1) First offense: immediate suspension for six (6) months, and a one thousand five hundred dollar (\$1,500) civil fine; and
 - (2) Second offense: immediate suspension, revocation, and a three thousand dollar (\$3,000) civil fine.

1402.10 Each owner and operator of a black car and each private sedan operations shall maintain and provide the following information:

- (a) Each owner and operator of a black car, and each private sedan business, shall ensure that the following information is at all times maintained correctly and accurately with the DDS, and updated within three (3) business days of any change:
 - (1) The full name, home address, home telephone number, cellular telephone number, social security number, and date of birth of the operator;
 - (2) For black car service, if the vehicle is owned by an LCS organization, the name of the organization, and its name and contact information;
 - (3) The make, model, year, vehicle identification number (VIN), and tag number of the vehicle;
 - (4) The operator's personal driver's license number;
 - (5) The operator's DCTC operator's license number or private sedan operator's license number, as applicable;

- (6) The operator's personal motor vehicle insurance policy information, including the policy number and the expiration date;
 - (7) A statement of whether the vehicle is wheelchair accessible; and
 - (8) A statement of whether the vehicle is designated by the owner or operator as "smoking" or "non-smoking", pursuant to § 1402.12.
- (b) Each private sedan operator shall:
- (1) Within five (5) days of any of the following incidents that occur while the operator is providing service or is otherwise operating the vehicle for any purpose, report to the DDS and to the private sedan business:
 - (A) An accident involving the vehicle;
 - (B) An injury to any person;
 - (C) An arrest of the operator for any reason, or
 - (D) A citation issued to the operator for a moving violation.
 - (2) Immediately notify the DDS and the private sedan business if his or her personal motor vehicle insurance policy is not in effect, during which time he or she shall not provide service and shall not sign into the digital payment system (the app).

1402.11 The fares for black car and private sedan service, if any, shall:

- (a) Be based on time and distance rates as set by the DDS except for a set fare for a route approved by the Office order for a well-traveled route, including a trip to an airport or to an event;
- (b) Be consistent with the DDS' statement of its fare calculation method posted on its website pursuant to Chapter 16;
- (c) Be disclosed to the passenger in a statement of the DDS' fare calculation method;
- (d) Be used to calculate an estimated fare, if any, and disclosed to the passenger prior to the acceptance of service;
- (e) State whether demand pricing applies and, if so, the effect of such pricing on the estimate;

- (f) Not exceed the estimated fare, if any, by more than twenty percent (20%) or twenty five dollars (\$25), whichever is less, unless the excess is due to delays or stopovers en route at the request of the passenger, or other factors beyond the operator's control, such as traffic, accidents, or construction;
- (g) Not include a gratuity that does not meet the definition of a "gratuity" as defined in this title; and
- (h) Include the passenger surcharge, unless the DDS or another entity chooses to pay it to the District on behalf of the passenger provided it is paid in the manner and at the time required by all applicable provisions of this title.

1402.12 Each charge other than a passenger rate or charge, such as a trip cancellation fee, membership fee, or other similar charge, shall be disclosed to the passenger prior to acceptance of the service.

1402.13 Smoking designation. Each black car owner and private sedan operator shall designate his or her vehicle as a "smoking" or "non-smoking" vehicle, at the time the vehicle is first put into service under this chapter and maintain the vehicle as follows:

- (a) Neither a "smoking" vehicle nor a vehicle in which smoking has occurred in the three (3) years prior to the use of the vehicle as a public vehicle-for-hire shall be re-designated a "non-smoking" vehicle. For a private sedan, such a designation shall be consistent with any policy of the private sedan business regarding smoking.
- (b) If a vehicle is designated as a "non-smoking" vehicle, smoking shall not be permitted in the vehicle at any time by any person, including the operator.
- (c) If a vehicle is designated as a "smoking" vehicle:
 - (1) When the operator is providing service, smoking shall only be permitted with prior consent of all passengers pursuant to the Smoking Restriction Act; and
 - (2) When the operator is providing service, the operator shall not smoke or handle tobacco products, lighters, or matches.
- (d) The designation of a vehicle as "smoking" or "non-smoking" shall be disclosed to the passenger prior to the acceptance of the service.

- 1402.14 Unauthorized passengers. Each black car or private sedan operator shall provide service only if all the passengers in the vehicle are passengers who have been picked up pursuant to a digital dispatch. No other passenger shall be allowed.
- 1402.15 Each black car and private sedan operator shall comply with the following additional operating requirements:
- (a) Each black car and private sedan operator shall comply with the following rules of Chapter 8: § 807.3 (Distracted Driving Safety Act); § 807.4 (use of mobile phone or other electronic device); § 810.2 (unauthorized signs, provided however, that approved trade dress may be placed on private sedans pursuant to Chapter 17); § 814.7 (counterfeiting of licensing documents); §§ 816.1-816.14 (standards of conduct, including the requirement to report an arrest of the operator); § 817.1 (harassment and use of physical force); § 818 (discrimination prohibited); § 821.5 (loitering prohibited); § 821.7 (use of taxicab stands); § 823 (manifest record, which may be provided through the DPS unit of a registered DDS); § 824 (sanctions and penalties); § 826 (filing of complaints).
 - (b) Each black car operator shall comply with § 828 (reciprocity with surrounding jurisdictions).

1403 PROHIBITIONS

- 1403.1 No operator shall provide service or sign into the digital payment system (the app) if either the operator or the vehicle do not have current and valid licenses under the applicable provisions of this title.
- 1403.2 No private sedan operator shall provide service or sign into the digital payment system (the app) if the DCTC private sedan vehicle decal is not properly displayed on the vehicle in the manner prescribed by the Office pursuant to Chapter 17.
- 1403.3 No operator shall provide service or sign into the digital payment system (the app) if either the operator or the vehicle are not in full compliance with all applicable insurance requirements of this title.
- 1403.4 No operator shall provide service or sign into the digital payment system (the app) if his or her DCTC operator's or private sedan license has been suspended, revoked, or not renewed by the Office, or, if the operator is a private sedan operator, if he or she has disaffiliated from, or been suspended or terminated by, the private sedan business.
- 1403.5 No operator shall associate with a digital dispatch service which is not registered under Chapter 16.

- 1403.6 No private sedan operator shall associate with a private sedan business that is not licensed under Chapter 16.
- 1403.7 No operator shall provide service while under the influence of illegal intoxicants or legal intoxicants that have been prescribed with a warning against use while driving or operating equipment.
- 1403.8 No operator shall solicit or accept a street hail, engage in false dispatch, or use a taxicab stand.
- 1403.9 No operator who possesses a private sedan operator's license shall be signed into the digital payment system and providing private sedan service for more than twenty (20) hours per week.
- 1403.10 No operator shall accept a payment from a passenger, or provide service, unless the amount of the fare (including any gratuity), and the method of payment, comply with all applicable provisions of this chapter and Chapter 16.
- 1403.11 No operator shall access or attempt to access a passenger's payment information after the payment has been processed.
- 1403.12 No operator shall fail or refuse to pick up a passenger at the time and location agreed in the digital dispatch.
- 1403.13 No operator shall violate a provision of §§ 1402.12 through 1402.14.
- 1403.14 No operator or owner shall hinder or prevent the collection of the passenger surcharge for any trip, provided however, that a DDS or other entity may choose to pay the surcharge on behalf of the passenger provided it is paid to the District as required by the title.
- 1403.15 No operator or owner shall alter or tamper with any component of a DPS unit (including a tablet, smartphone, or the app) or make any change in the unit or the vehicle that prevents it from operating as required by the DDS or by this title.
- 1403.16 No operator shall provide service using a DPS unit that has been tampered with, broken, or altered. The operation of a vehicle with a tampered, broken, or altered DPS shall give rise to a rebuttable presumption that the operator knew of the tampering, breaking, or alteration.
- 1403.17 No operator shall fail to comply with the documentation requirements of § 1402.7.
- 1403.18 No operator shall use the services of more than one (1) DDS at a time. There shall be a rebuttable presumption that the operator has violated this provision if

there is, present in the vehicle, more than one (1) DDS device (app) present in the vehicle.

1404 PENALTIES

1404.1 Each violation of this chapter, or violation of Chapter 17 of this title, shall subject an owner or operator to:

- (a) A civil fine established by a provision of this chapter;
- (b) Suspension, which, for operators, may include one or more conditions, to be paid for by the violator, which the Office determines are related to the misconduct, including, but not limited to:
 - (1) Completion of a course in anger management course, cultural sensitivity course, sexual harassment, driver education, or another subject related to the misconduct; and
 - (2) Re-taking of the DCTC operator's training course (for black car owners and operators).
- (c) Revocation, or non-renewal of an operator's license and/or vehicle license issued pursuant to this title;
- (d) Impoundment of a vehicle operated in violation of this chapter, as provided in the Impoundment Act;
- (e) Confiscation of equipment (a tablet or smartphone) used in violation of this chapter; and
- (f) A combination of the sanctions enumerated in parts (a) through (e) of this subsection.

1404.2 Penalties for each violation of this chapter by a DDS shall be accordance with the penalties provisions of Chapter 16.

1404.3 Except where otherwise specified in this title or chapter, the following civil fines are established for violations of this chapter, which, unless otherwise stated in this chapter, shall double for the second violation of the same provision, and triple for each violation of the same provision thereafter:

- (a) A civil fine of two hundred fifty (\$250) dollars where no civil fine is enumerated;
- (b) For a violation of § 1402.7 for failure to comply with documentation requirements: a civil fine of three hundred dollars (\$300);

- (c) For a violation of § 1402.6 for failure to cooperate with the Office or a District enforcement official, including a failure to obey an oral compliance order by a public vehicle inspection officer, a civil fine of five hundred dollars (\$500);
- (d) For a violation of § 1402.11 by accepting an unlawful gratuity: a civil fine equal to ten (10) times the amount of the unlawful gratuity, or three hundred dollars (\$300), whichever is greater;
- (e) For a violation of § 1402.11 by engaging in conduct which causes the District to not be paid a passenger surcharge in the amount and at the time required by this title: a five hundred dollar (\$500) civil fine;
- (f) For a violation of § 1402.15 for engaging in unlawful discrimination, as prohibited by § 818: a civil fine of seven hundred fifty dollars (\$750); and
- (g) For a violation of § 1402.14 for providing service while transporting a passenger other than a passenger picked up pursuant to a dispatch: a civil fine of three hundred dollars (\$300).

1404.4 The enforcement of any provision of this chapter shall be governed by the applicable enforcement procedures of Chapter 7 of this title.

Copies of this proposed rulemaking can be obtained at www.dcregs.dc.gov or by contacting Juanda Mixon, 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 proposed rulemaking action should submit written comments via e-mail to dctc@dc.gov or by mail to the DC Taxicab Commission, 2041 Martin Luther King, Jr., Ave., S.E., Suite 204, Washington, DC 20020, Attn: Juanda Mixon, Secretary to the Commission, no later than thirty (30) days after the publication of this notice in the *D.C. Register*.