

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(b)(1) (C), (D), (E), (F), (G), (I), (J), 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(b)(1) (C), (D), (E), (F), (G), (I), (J) (2009 Repl.), 50-313 (2012 Supp.), 50-319 (2009 Repl.), and § 50-320 (2012 Supp.)) ; D.C. Official Code § 47-2829 (b), (d), (e), (e-1), and (i) (2012 Supp.)); section 12 of An Act Making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1920, and for other purposes, approved July 11, 1919, approved July 11, 1919 (41 Stat. 104; D.C. Official Code § 50-371 (2009 Repl.)), hereby gives notice of its intent to adopt rules 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). Directions for submitting comments may be found at the end of this Notice.

Proposed rules creating Chapter 14 (Licensing of Limousine Operators, Vehicles and Organizations) of DCMR Title 31 were originally approved by the Commission for publication on February 13, 2013, and published in the D.C. Register on March 15, 2013, at 60 DCR 3761. The Commission held a public hearing on the proposed rules on March 29, 2013, 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 April 13, 2013. The rulemaking establishes a Chapter 14 to establish substantive rules governing the operation of public vehicle-for-hire operators and vehicles licensed pursuant to Chapter 12 (Sedan and Limousine Operators, Vehicles, and Organizations) of this title to provide sedan service in the District of Columbia.

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 This Chapter establishes substantive rules governing the operation of sedan service in the District, including rules to ensure the safety of passengers and operators, to protect consumers, and to collect a sedan 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.*

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 restrictive provision shall control.

1401 GENERAL PROVISIONS

1401.1 Effective September 1, 2013, each sedan class trip in the District shall meet the following requirements:

- (a) It shall be booked through a digital dispatch;
- (b) It shall be paid for by a digital payment;
- (c) The digital dispatch and digital payment shall be processed through a digital payment system that meets the requirements of § 1404 and is included in a DDS's current certificate of operating authority issued under Chapter 16 of this Title;
- (d) The DDS shall be in compliance with this Chapter and Chapter 16; and
- (e) The vehicle, owner, and operator shall be in compliance with this Chapter and Chapter 12.

1401.2 Any person that violates the requirements of § 1401.1 will be subject to civil penalties, including impoundment of the vehicle.

1401.3 No person shall provide digital dispatch or digital payment or otherwise provide any booking service for sedans in the District unless such person is a digital dispatch service with a current certificate of operating authority under Chapter 16 that includes a digital payment system for sedans under this Chapter.

1401.4 Each DDS interested in marketing a digital payment system to sedan owners and operators shall apply for and obtain an initial, renewed, or amended certificate of operating authority under Chapter 16 that includes approval of such digital payment system. Each DDS with such operating authority shall comply with the provisions of this Chapter and Chapter 16 of this Title.

1401.5 Each operator, vehicle, and LCS organization or independent operator that participates in providing sedan service shall at all times comply with the provisions of this Chapter, Chapter 12 of this Title (Luxury Class Service – Owners, Operators, and Vehicles) and other applicable laws, including reciprocal agreements between governmental bodies in the Washington

Metropolitan Area governing public vehicle-for-hire service (including those in § 828 to the same extent as taxicabs).

1401.6 All costs associated with a digital payment system, including those associated with development (which may arise while seeking approval of a digital payment system under Chapter 16), compliance with any provision of this Title or other applicable law, compliance with an Office order, service and support, upgrade, installation, operation, repair, and maintenance, shall be the responsibility of the DDS, but may be allocated by written agreement among the DDS and the owners and operators with which it associates.

1401.7 Nothing in this Chapter shall be construed to solicit or create a contractual relationship between the District and any person.

1402 SEDAN CLASS RATES AND CHARGES

1402.1 Passenger rates and charges for sedan class service shall:

- (a) Be based on time and distance, 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 disclosed to the passenger in a statement of the DDS' fare calculation method;
- (c) Be used to calculate an estimated fare that shall be offered to the passenger prior to the acceptance of service, which shall state whether demand pricing applies, and, if so, the effect of such pricing on the estimate;
- (d) Be consistent with the DDS statement of its fare calculation method posted on its website pursuant to Chapter 16;
- (e) Not exceed the estimated fare 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 direction of the passenger, or other factors beyond the operator's control, such as traffic, accidents, or construction; and
- (f) Not include a gratuity that does not meet the definition of a "gratuity".

1403 PASSENGER SURCHARGE ACCOUNTS

1403.1 Each DDS that operates a digital payment system shall ensure that the sedan passenger surcharge is collected from the passenger and paid to the Office for each trip, and shall—

- (a) Remit a payment to the D.C. Treasurer at the end of each seven (7) day period reflecting the sum of all sedan passenger surcharges owed to the Office for trips made during such period, based on the trip data provided during such period, and sending contemporaneously via email a report to the Office certifying its payment and providing a basis for the amount thereof; and
- (b) Cooperate with the Office in the event of a discrepancy between a payment and the trip data from the digital payment system, provided however, that if the DDS and Office are unable to agree on a resolution of a dispute within thirty (30) days, the Office may, in its discretion, make a claim against the security bond to satisfy the amount of the discrepancy.

1403.2 The bond given to the Office at the time of application for an initial, renewed, or amended certificate of operating authority under Chapter 16 that includes approval of such digital payment system shall be returned to the DDS within thirty (30) days following an event that causes the digital payment system to no longer be approved, provided, however, that the bond shall not be returned while there remains a discrepancy in the amount owed for sedan passenger surcharges, which shall be resolved as provided in this Section.

1404 DIGITAL PAYMENT SYSTEMS – REQUIREMENTS

1404.1 Each digital payment system (DPS) approved by the Office as part of a DDS’ initial, renewed, or amended certificate of operating authority under Chapter 16 shall meet the requirements of this Section.

1404.2 Equipment requirements. Each DPS unit shall consist of any reasonable combination of digital technologies that:

- (a) Allows the owner and operator to provide service in compliance with this Chapter and Chapter 12 of this Title, and allows the DDS to comply with §§ 1403.3 and 1404; and
- (b) Provides the passenger with an electronic receipt before the passenger exits the vehicle, containing the date and time of the trip; the distance of the trip; the vehicle’s tag number, the name and customer service telephone number of the DDS; information sufficient to allow the passenger to reference the passenger’s DDS account or payment card number used to pay the fare; the total fare and a breakdown of the fare including all rates and charges and any gratuity; and the following statement: “Sedan service in Washington, DC is regulated by the DC Taxicab Commission, 2041 Martin Luther King Jr., Ave., SE, Suite

204, Washington, DC 20020, www.dctaxi.dc.gov, dctc3@dc.gov, 1-855-484-4966, TTY 711”.

1404.3 Service and support requirements. The DDS, using data from each DPS unit, shall:

- (a) Transmit to the TCIS every twenty-four (24) hours via a single data feed consistent in structure across all digital payment systems, the following data:
 - (1) The date;
 - (2) The operator identification number and vehicle tag number in an anonymous format established by the Office that allows the DDS to maintain a record of the identity of the operator and the vehicle;
 - (3) The time at the beginning of each tour of duty;
 - (4) The distance of each trip;
 - (5) The time of pickup and drop-off of each trip;
 - (6) The geospatially-recorded places of pickup and drop-off of each trip, which the DDS may elect to generalize to census tract;
 - (7) A unique trip number assigned by the DDS to each trip;
 - (8) The total fare and a breakdown of the fare including all rates and charges and any gratuity;
 - (9) The time at the end of the tour of duty;
- (b) Provide the Office with the information necessary to insure that the DDS pays and the Office receives the sedan passenger surcharge for each sedan trip;
- (c) Process each payment for each sedan trip, which shall not exceed the fare allowed by this Chapter; and
- (d) Insure the timely transmission of an electronic receipt.

1405 PROHIBITIONS

1405.1 No owner or operator provide sedan service in the District except as required by this Chapter, Chapter 12 of this Title, and other applicable laws.

- 1405.2 No DDS shall provide dispatch or payment services for sedan class service in the District except as required by this Chapter, Chapter 16 of this Title, and other applicable laws.
- 1405.3 No person providing sedan service in the District unless the fare, including all rates and charges, comply with § 1402 and all other applicable provisions of this Chapter.
- 1405.4 No person providing sedan service in the District shall charge a gratuity, regardless of how such amount is styled, that does not comply with § 1402.1 (f).
- 1405.5 No person shall participate in providing sedan service in the District unless the passenger surcharge is collected from the passenger and received by the Office.
- 1405.6 No person shall provide sedan service if the vehicle or the operator was not on the DDS vehicle inventory at the time the digital dispatch was initiated by the passenger.
- 1405.7 No owner or operator may alter or tamper with a component of a DPS unit or make any change in the vehicle that prevents the DPS unit from operating as required by this Chapter.
- 1405.8 No operator may provide service using a DPS unit that has been tampered with, broken, or altered. The operation of a sedan with a tampered, broken, or altered DPS shall give rise to a rebuttable presumption that the operator knew of the tampering, breaking, or alteration.
- 1405.9 Sedan class service shall not be booked except through a digital dispatch transmitted to the operator by a DDS using a digital payment system with current operating authority to operate such system.
- 1405.10 Sedan class service shall not be paid for except through a digital payment processed by the DDS using a digital payment system with current operating authority to operate such system.
- 1405.11 No DDS shall allow its associated operators to access a passenger's payment information after the payment has been processed.
- 1405.12 Each operator shall pick up a passenger at the time and location provided in the digital dispatch.

1406 PENALTIES

- 1406.1 Each violation of this Chapter by a LCS organization, independent vehicle owner, or vehicle operator, shall subject the violator to:
- (a) Except where otherwise provided in § 1406.3, a civil fine of two-hundred fifty (\$250) dollars, which shall double for the second violation of the same provision, and triple for each violation of the same provision thereafter;
 - (b) Suspension, revocation, or non-renewal of the operator's license issued pursuant to Chapter 12 of this Title;
 - (c) Impoundment of each vehicle found to be operating in violation of this Chapter, including operating as a sedan without an office-approved DPS or with a DPS unit the approval of which has been suspended, revoked, or not renewed;
 - (d) Confiscation of any DPS equipment used in violation of this Chapter;
or
 - (e) A combination of the sanctions enumerated in this Subsection.
- 1406.2 Each violation of this Chapter by a DDS or its authorized representative shall subject the DDS to:
- (a) Except where otherwise provided in § 1406.3, a civil fine of five hundred (\$500) dollars, which shall double for the second violation of the same provision, and triple for each violation of the same provision thereafter;
 - (b) Suspension, revocation, or non-renewal of the approval of the DPS associated with the DDS;
 - (c) Suspension, revocation, or non-renewal of the certificate of registration of the DDS issued by the Office under Chapter 16 of this Title;
 - (d) Confiscation of any DPS equipment used in violation of this Chapter;
or
 - (e) A combination of the sanctions enumerated in this Subsection.
- 1406.3 The following civil fines are established for violations of §§ 1405.4, 1405.8, and 1405.11, in addition to any other civil penalty or combination of penalties authorized by §§ 1406.1 and 1406.2.
- (a) For a violation of § 1405.4 for charging or processing a payment that includes an unlawful gratuity—

- (1) If the violator is an operator: a civil fine equal to ten (10) times the amount of the unlawful gratuity, or three hundred dollars (\$300), whichever is more; and
- (2) If the violator is a DDS: a civil fine equal to twenty (20) times the amount of the unlawful gratuity, or five hundred dollars (\$500), whichever is more;
- (b) For a violation of § 1405.9 by an operator who accepts or solicits a street hail: a civil fine of three hundred dollars (\$300);
- (c) For a violation of § 1405.12 for failing to pick up a passenger at the time and location provided in the digital dispatch—
 - (1) If the violator is an operator: a civil fine of five hundred dollars (\$500); and
 - (2) If the violator is a DDS: a civil fine of one thousand dollars (\$1,000).

1407 ENFORCEMENT OF THIS CHAPTER

1407.1 The enforcement of any provision of this Chapter shall be governed by the procedures set forth in Chapter 7 of this Title (Enforcement of this Title).

1499 DEFINITIONS

1499.1 The terms “limousine,” “operator,” “owner,” and “sedan,” 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 terms “cashless payment,” “gratuity,” “payment service provider,” and “PSP” shall have the meanings ascribed to them in Chapter 4 of this Title.

1499.4 The following words and phrases shall have the meanings ascribed:

“Associated” is 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.

“District enforcement official” is a public vehicle enforcement inspector (hack inspector) or other authorized official, employee, or general counsel of the

Office, or any law enforcement official authorized to enforce a provision of this Title.

“Sedan passenger surcharge” is a twenty-five cent (\$.25) passenger surcharge for each sedan class trip.

Copies of this proposed rulemaking can be obtained at 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 this proposed rulemaking should submit written comments via e-mail to 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. Comments should be filed within thirty (30) days after publication of this notice in the *D.C. Register*.