

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 16 (Dispatch Services) 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 amending Chapter 16 (Dispatch Services) 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 3774. 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 16 to establish substantive rules governing dispatch services for public vehicles-for-hire, including rules to ensure the safety of passengers and operators, for consumer protection, and to collect a passenger surcharge.

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 16, DISPATCH SERVICES, of Title 31, TAXICABS AND PUBLIC VEHICLES FOR HIRE, of the DCMR, to read as follows:

CHAPTER 16 DISPATCH SERVICES

1600 APPLICATION AND SCOPE

- 1600.1 This Chapter establishes substantive rules governing dispatch services for public vehicles-for-hire, including rules to ensure the safety of passengers and operators, for consumer protection, and to collect a passenger surcharge.
- 1600.2 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.*

1600.3 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.

1601 GENERAL REQUIREMENTS

1601.1 No person shall provide telephone or digital dispatch, or digital payment, for public vehicles-for-hire in the District, except in compliance with this Chapter, all applicable provisions of this Title, and other applicable laws.

1601.2 Nothing in this Chapter shall be construed to solicit or create a contractual relationship between the District of Columbia and any person.

1601.3 Implementation of regulations applicable to dispatch services and associated owners and operators. Beginning on September 1, 2013, each dispatch service shall —

- (a) Operate in compliance with § 1603; and
- (b) Maintain current operating authority from the Office under § 1604 that extends to all services it provides;

1601.4 No person regulated by this Title shall knowingly associate with a dispatch service not in compliance with all applicable provisions of this Title and other applicable laws.

1602 RELATED SERVICES

1602.1 A dispatch service may be operated by a person that offers other services regulated by this Title, such as a taxicab company or payment service provider, provided such other services are in compliance with all applicable provisions of this Title and other applicable laws, and may share a place of business with such service(s) if the place of business is in compliance with this Title and other applicable laws, including the requirement for a certificate of occupancy provided by the Department of Consumer and Regulatory Affairs.

1602.2 All provisions of this Title applicable to digital dispatch services shall apply equally to each DDS regardless of whether such DDS receives payment from the passenger or the operator in connection with dispatch services.

1603 OPERATING REQUIREMENTS FOR ALL DISPATCH SERVICES

1603.1 No dispatch service shall operate in the District except in compliance with all provisions of this Section.

1603.2 Each dispatch service that provides digital services for sedans shall comply with the provisions of Chapter 14.

- 1603.3 Each dispatch service that participates in providing taxicab service shall comply with the provisions of Chapters 8.
- 1603.4 Each dispatch provided by a dispatch service shall comply with the definition of “dispatch”.
- 1603.5 Each gratuity charged by a dispatch service shall comply with the definition of “gratuity”.
- 1603.6 Each digital dispatch service that processes digital payments shall—
- (a) Charge fares using the rates and charges in § 801 for taxicab service and in § 1402 for sedan service;
 - (b) If the payments are processed for taxicab service, such service shall be provided to passengers only where the DDS associates with a payment service provider whose MTS has been approved by the Office under Chapter 4;
 - (c) Provide receipts as required by § 803.3 for taxicab service and § 1404.2 (b) for sedan service;
 - (d) Use technology that meets Open Web Application Security Project (“OWASP”) security guidelines, complies with current standards of the PCI Security Standards Council (“Council”) for payment card data security, if such standards exist, and, if not, then with current guidelines of the Council for payment card data security, and, for direct debit transactions, complies with the rules and guidelines of the National Automated Clearing House Association; and
 - (e) Promptly inform the Office of a security breach requiring a report under the D.C. Consumer Personal Information Security Breach Notification Act of 2006, D.C. Official Code §§ 28-3851, *et seq.* or other applicable law.
- 1603.7 Each dispatch shall clearly provide the person seeking service with the option to request an available wheelchair-accessible vehicle.
- 1603.8 Each dispatch service shall maintain a bona fide administrative office or a registered agent authorized to accept service of process, provided, however, a dispatch service operated by a taxicab company required to maintain such an office pursuant to Chapter 5 of this Title shall operate its dispatch service at that location or another bona fide administrative office.

1603.9 Each dispatch service shall maintain a customer service telephone number for passengers with a “202” prefix or a toll-free area code, or an email address posted on its website that is answered or replied to during normal business hours.

1603.10 Each dispatch service shall maintain a website with current information that includes:

- (a) The name of the dispatch service;
- (b) Contact information for its bona fide administrative office or registered agent authorized to accept service of process;
- (c) Its customer service telephone number or email address;
- (d) A statement of how the fare is calculated for each class of service it offers, which shall include a statement of the rates and charges allowed by § 1402, and, for sedan service, shall indicate whether the dispatch service uses demand pricing and, if so, how such pricing affects its rates; and
- (e) The following statement prominently displayed:

Public vehicle-for-hire services in Washington, DC
are 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

1603.11 Each dispatch service shall comply with §§ 508 through 513, to the same extent as if it were a taxicab company.

1603.12 Each dispatch service shall provide its services throughout the entire District.

1603.13 Each dispatch service shall require through its terms of service that each vehicle operator with which it is associated fully perform the service agreed to in in the dispatch, including picking up the passenger at the agreed time and location, except for a bona fide reason not prohibited by § 819.5 or other applicable provision of this Title.

1603.14 (a) A dispatch service shall not:

- (1) Release information to any person that would result in a violation of the personal privacy of the passenger or the person requesting service, or that would threaten the safety of a passenger or an operator; or

(2) Permit access to real-time information about the location, apparent gender, or number of passengers awaiting pick up by a person not authorized by the dispatch service to receive such information.

(b) This Subsection shall not limit access to information by the Office or a District enforcement official.

1603.15 A dispatch service shall not transmit to the operator any information about the destination of a trip, except for the jurisdiction of the destination, until the trip has been booked.

1603.16 Each dispatch service shall store its business records in compliance with industry best practices and all applicable laws, make its business records available for inspection and copying as directed by the Office, and retain its business records for five (5) years.

1603.17 Each dispatch service shall be in compliance with all applicable provisions of this Title and 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.

1603.18 Each DDS that provides digital services for sedans, shall:

(a) Maintain with the Office an accurate and current inventory of the vehicles and operators associated with the DDS to use its system, including—

(1) For each vehicle:

(A) The name of and contact information for the owner (LCS organization or independent owner/operator);

(B) The vehicle's vehicle identification number (VIN), make, model, and year of manufacture;

(C) A certification that the vehicle is in compliance with Chapter 9 of this Title (Insurance);

(D) An indication of whether the vehicle is wheelchair accessible;

(E) An indication of whether the vehicle is in active use; and

(2) For each operator:

(i) His or her name and contact information;

- (ii) His or her DCTC operator license number;
 - (iii) An indication of whether he or she is actively using the DPS; and
 - (iv) If the operator is associated with an LCS organization, its name and contact information;
- (b) Collect from the passenger and remit to the Office all sedan passenger surcharges required by Chapter 14.

1604 CERTIFICATE OF OPERATING AUTHORITY

1604.1 No dispatch service shall operate in the District unless it has a current certificate of operating authority issued by the Office pursuant to this Chapter which expressly includes such service, provided, however, that a taxicab company with existing , which, as of the effective date, is operating a dispatch service..

1604.2 A dispatch service shall file an application for an initial certificate of operating authority from the Office by providing the following information and documentation:

- (a) Its name and contact information;
- (b) The name of and contact information for each public vehicle-for-hire business or service associated with, or operated by an owner of, the DDS, including any payment service provider, and any business or service operated or offered outside the District,
- (c) A detailed technical description of the dispatch or payment solutions or digital payment system offered by the DDS, including the trade names and software applications, platforms, and operating systems used;
- (d) A sample of each agreement or policy, including any user agreement or privacy policy, applicable to the DDS’s association with vehicle owners and operators, and with persons seeking public vehicle-for-hire services;
- (e) An indication by the applicant of whether the dispatch service intends to offer dispatch of sedans, and whether it intends to offer dispatch services or digital payments for taxicabs, or both; and
- (f) Such other information and documentation as the Office may require to determine that the dispatch or payment solutions offered by the DDS meets the requirements of § 1602.

- 1604.3 Each application under § 1604.2 shall be provided under penalty of perjury, and accompanied by a fee of five hundred dollars (\$500), except that the fee for an application to amend an existing certificate of operating authority under § 1604.4, regardless of the number of services proposed to be added to the certificate, shall be three hundred dollars (\$300).
- 1604.4 Each certificate of operating authority shall continue in force and effect for twenty four (24) months, during which time no substantial change may be made to a DDS's dispatch or payment solution for taxicabs, or digital payment system for sedans, without written approval from the Office. A DDS shall inform the Office of a proposed substantial change to its dispatch or payment solution that would require written approval at least thirty (30) days prior to the change, and shall notify the Office of any other change in the information contained in the certification or its supporting documentation, such as contact information, within seven (7) days of the change.
- 1604.5 Each DDS with current operating authority under this Section may at any time file an application to amend its operating authority to include additional services it wishes to market to public vehicle-for-hire owners and operators.
- 1604.6 Each DDS with current operating authority under this Section shall file to renew its operating authority at least sixty (60) days prior to the expiration thereof, by providing the information or documentation required for an initial application to the extent required by the Office. Operating authority shall continue in force and effect beyond its expiration period during such time as an application to renew is pending acceptance in proper form.
- 1604.7 A DDS that maintains current operating authority under this Section shall annually provide, beginning on the first (1st) day of the thirteenth (13th) month after its operating authority was issued:
- (a) A report on the wait times and fares charged to passengers seeking wheelchair-accessible service in the prior twelve (12) months; and
 - (b) A list of incidents in the prior twelve (12) months involving an allegation or dispute concerning:
 - (1) A payment, where the dispute involved fifty dollars (\$50) or more;
 - (2) Fraud or criminal activity; or
 - (3) Violations of the anti-discrimination rules of Chapter 5 of this Title.
- 1604.8 The Office may arrange one (1) demonstration for each of the DDS's dispatch or payment solutions for taxicabs, or its digital payment system for sedans, where

the Office's technical staff may examine and test the equipment and ask questions of the DDS's technical staff, who shall attend the demonstration.

- 1604.9 The Office shall determine whether to grant or deny an application within fourteen (14) days after it is filed, provided however, that such period may be extended by the Office for no more than ten (10) days with notice to the DDS.
- 1604.10 If the Office grants an application, it shall provide notice to the DDS in writing.
- 1604.11 If the Office denies an application, it shall state the reasons for its decision in writing. A decision to deny may be appealed to the Chief of the Office within fifteen (15) business days, and, otherwise, shall constitute a final decision of the Office. The Chief shall issue a decision within thirty (30) days. A timely appeal of a denial shall extend an existing certificate pending the Chief's decision. A decision of the Chief to affirm or reverse a denial shall constitute a final decision of the Office. A decision of the Chief to remand to the Office for further review of the filing shall extend an existing certificate pending the final decision of the Office.
- 1604.12 The name of each DDS with current operating authority, and the name of each service included in such authority, including any dispatch or payment solutions for taxicabs, or a digital payment system for sedans, shall be listed on the Commission's website.
- 1604.13 Operating authority may be temporarily or indefinitely suspended by the Office with reasonable notice and an opportunity to be heard if the Office learns that any of the DDS's services, or the persons using it, are not in substantial compliance with this Title, or if a DDS's digital payment system, or its dispatch or payment solution, is being used in a manner that poses a significant threat to passenger or operator safety, or consumer protection.

1604 PROHIBITIONS

- 1604.1 No person shall dispatch a public vehicle-for hire in the District except as provided in this Chapter.
- 1604.2 No person shall process a digital payment for a public vehicle-for-hire in the District except as provided in this Chapter.
- 1604.3 No dispatch service shall provide a digital service unless such dispatch service has a current certificate of operating authority that includes such digital service.
- 1604.4 No dispatch service shall participate in providing sedan service in the District unless the payment, and the fare, including the rates, charges, and gratuity, if any, comply with the applicable provisions of this Chapter and the passenger surcharge is collected from the passenger and received by the Office.

- 1604.5 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).
- 1604.6 No dispatch service may alter or attempt to alter its legal obligations under this Title or to impose an obligation on any person or limit the rights of any person in a manner that is contrary to public policy or that threatens passenger or operator safety or consumer protection.
- 1604.7 A DDS shall not provide digital dispatches to a taxicab operator who provides service with a vehicle that displays on its exterior the name, color scheme, or other unique branding of a taxicab fleet or association, if such fleet or association does not agree to the operator's association with the DDS, and—
- (a) For thirty (30) days following the effective date of this rulemaking, such fleet or association is operating a dispatch service limited to its associated vehicles; or
 - (b) After thirty (30) days following the effective date of this rulemaking, such fleet or association has filed for or received registration for a DDS limited to its associated vehicles.

1605 ENFORCEMENT

- 1605.1 The enforcement of any provision of this Chapter shall be governed by the procedures set forth in Chapter 7 of this Title.

1606 PENALTIES

- 1606.1 A dispatch service that violates this Chapter shall be subject to:
- (a) A civil fine of five hundred dollars (\$500) for the first violation of a provision, one-thousand dollars (\$1,000) for the second violation of the same provision, and one-thousand five-hundred dollars (\$1,500) for each subsequent violation of the same provision;
 - (b) Suspension, revocation, or non-renewal of a Certificate of Registration or Certificate of Operating Authority;
 - (c) Any penalty available under Chapter 6 in connection with the service and support of an MTS for the operation of taxicabs or under Chapter 14 in connection with the service and support of an SPS for the operation of sedans; or
 - (d) Any combination of the sanctions listed in this Subsection.

1699 DEFINITIONS

1699.1 The terms “cashless payment,” “modern taximeter system,” “MTS,” “payment service provider” and “PSP” shall have the meanings ascribed in Chapter 6 of this Title.

1699.2 The term “sedan” shall have the meaning ascribed to it in Chapter 12 of this Title.

1699.3 The terms “digital payment,” “sedan payment system,” and “SPS” shall have the meanings ascribed to them in Chapter 14 of this Title.

1699.4 The term “person” and “license” shall have the meanings ascribed to them in the D.C. Administrative Procedure Act, D.C. Official Code § 2-502.

1699.5 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.

“Booked” means agreed and accepted by the customer.

“Customer” is a person that requests public vehicle-for-hire service, including a passenger, or any other person that requests service on behalf of a passenger.

“Dispatch” means booking public vehicle-for-hire service through an advance reservation consisting of a request for service from a person seeking service, an offer of service by the dispatch service, an acceptance of service by the person seeking service, and an acknowledgement by the dispatch service that includes an estimated time of arrival of a booked vehicle.

“Digital dispatch” is dispatch via computer, mobile phone application, text, email, or Web-based reservation.

“Digital payment” means a non-cash payment processed by a digital dispatch service and not by the vehicle operator, such as a payment by a payment card (a credit or debit card), processed through a mobile- or Web-based application. A digital payment does not mean a “cashless payment” as such term is defined in Chapter 6 of this Title.

“Digital services” means digital dispatch or digital payment for a public vehicle-for-hire.

“Dispatch service” is a business that offers telephone or digital dispatch.

“District enforcement official” means a public vehicle enforcement inspector or other authorized official, employee, or general counsel of the Office, or a law enforcement official authorized to enforce a provision of this Title.

“Independent operating authority” means any of the following current and valid licenses issued under this Title: approval for a modern taximeter system under Chapter 4; operating authority for a taxicab company, fleet, or association under Chapter 5; registration of a digital payment system for sedans under Chapter 14; or operating authority for an LCS organization under Chapter 12.

“Passenger surcharge” means the passenger surcharge required to be collected and remitted to the Office for each trip in a taxicab or sedan, as established by Chapter 6 for taxicabs and by Chapter 14 for sedans.

“Telephone dispatch” is dispatch via telephone.

Copies of the intended 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 the intended 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, prior to the publication of a superseding Notice of Proposed Rulemaking in the *D.C. Register*.