

DEPARTMENT OF FOR-HIRE VEHICLES

NOTICE OF FINAL RULEMAKING

The Acting Director of the Department of For-Hire Vehicles (“Department”) or “DFHV”¹, pursuant to the authority set forth in Sections 8(c) (2), (3), (7), (10), and (19), and 14, 20, and 20j 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 §§ 50-301.07(c) (2), (3), (7), (10), and (19), 50-301.13, 50-301.19 and 50-301.29 (2012 Repl. & 2015 Supp.)), hereby gives notice of the adoption of amendments to Chapter 10 (Public Vehicles for Hire), Chapter 18 (Wheelchair Accessible Paratransit Taxicab Service) and Chapter 99 (Definitions) of Title 31 (Taxicabs and Public Vehicles for Hire) of the District of Columbia Municipal Regulations (DCMR).

This final rulemaking amends Chapters 10 and 18 to provide a new pathway for licensed taxicab operators who lost their DFHV taxicab vehicles licenses when they surrendered their “H” tags to the Department of Motor Vehicles in the period two years prior to and two years after the imposition of the “H” tag moratorium.” See Final Report of the Panel on Industry: Findings and Recommendations on DCTC Policy on the Issuance of New Vehicle Licenses for Taxicabs (“The H-Tag Report”) (available at: <http://dctaxi.dc.gov/page/panel-industry>). This rulemaking adds a new § 101.20 consistent with the recommendations in the Report. The new provisions make these operators eligible for new vehicle licenses for the reasons cited in the Report for which they surrendered their tags. Consistent with the Department’s current policies, the new licenses carry reasonable conditions for the vehicles and the service they provide that are responsive to *current* market and passenger needs, rather than those which may have existed years ago, when the moratorium was imposed. The Department does not currently issue *any* vehicle licenses without such conditions. In addition, a necessary definition, not included in the proposed rulemaking, has been added to clarify that the Department for For-Hire Vehicles, by statutory authority, is the successor agency to the D.C. Taxicab Commission and the Office of Taxicabs.

Proposed rulemaking was adopted by the D.C. Taxicab Commission on March 9, 2016 and was published in the *D.C. Register* on June 17, 2016 at 63 DCR 008523. The Department received several comments during the comment period expiring July 17, 2016. Two groups representing taxicab operators submitted comments requesting that the Department: (1) eliminate the requirement in § 1010.20 (a) (1) (A) that the applicant have surrendered his or her “H” tags within the time period consisting of two years before and one year after the imposition of the moratorium; (2) eliminate or modify the requirement in § 1010.20 (a) (1) (C) that an applicant seeking a new taxicab vehicle license be required to establish a *bona fide* reason for having surrendered his or her “H” tags; (3) eliminate the requirement in § 1010.20 (a) (2) (B) that an applicant found to have returned his or her “H” tags for a *bona fide* reason also have made a request for new or “returned” “H” tags within the twelve (12) month period from the latest date by which the Department determines the *bona fide* reason (identified in § 1010.20 (a) (1) (C)) would no longer have provided a basis for the surrender of the “H” tags; and (4) eliminate § 1010.20 (d), which establishes conditions on the type and use of vehicles placed into service in connection with a new vehicle license issued pursuant to this new subsection. The Department also received a comment from an organization representing

¹ The District of Columbia Taxicab Commission was renamed and re-structured as the Department of For-Hire Vehicles by the Transportation Reorganization Act of 2016 (D.C. Law 21-0124) effective June 22, 2016.

taxicab companies supporting the requirements in § 1010.20 (d) and also advocating for overall limits on the number of new vehicle licenses to be issued by the Department.

Based on the comments received, the Department has enlarged the time period during which an applicant would have had to surrender their H Tag from three (3) years to four (4). This change decreases burdens on stakeholders as allows for an increases in the number of drivers who may be eligible to receive H Tags under this final rulemaking. The Department has made no substantive changes from the proposed rules, as the Department concludes that the rulemaking, as proposed, properly balances the current concerns of passengers and the industry with the policy goals identified in The H Tag Report. The Department's intent in promulgating these regulations is to provide new vehicle licenses *only* to those operators who surrendered their tags for a *bona fide* reason, in compliance with the regulations, and in the *reasonable* belief they would be able to re-enter the industry upon their return, not to create an unlimited avenue for licenses that would flood the market with new taxicabs at a time when taxicab service is shrinking, and passenger demands for accessible service and efficient vehicles is on the rise. The Department finds that the conditions on vehicles placed into service are necessary to meeting the current needs of the industry and passengers, and to maintaining reasonable parity with the conditions on other vehicle owners. Accordingly, the Department has made only non-substantive changes in § 1010.20 (a) for the purpose of clarifying intent, correcting grammar and typographic errors, or lessening the burdens on affected stakeholders.

The rules were adopted as final on September 7, 2016, and they will become effective upon publication in the *D.C. Register*.

Chapter 10, PUBLIC VEHICLES FOR HIRE, of Title 31 DCMR, TAXICABS AND PUBLIC VEHICLES FOR HIRE, is amended as follows:

Section 1010, ISSUANCE OF DFHV VEHICLE LICENSES, is amended as follows:

A new subsection 1010.20 is added to read as follows:

1010.20 A new DFHV taxicab vehicle license (and corresponding set of DMV "H" tags) shall be issued to each applicant who meets all the following requirements and all other applicable requirements of this title and other applicable laws and regulations of the District, pursuant to an applicable administrative issuance.

- (a) The applicant proves to the satisfaction of the Department that:
 - (1) The applicant surrendered his or her "H" tags to DMV as follows:
 - (A) During the four (4) year period beginning on July 6, 2007, through and including July 6, 2011;
 - (B) In good faith compliance with § 506 (taxicab removal from service); and
 - (C) For any *bona fide* reason identified in an administrative issuance which prevented the applicant from working as

a taxicab operator, such as a significant family or personal health need, an unaffordable vehicle failure or accident, or a significant legal obligation (“*bona fide* reasons” shall not include surrenders of “H” tags based on such voluntary decisions as engaging in economic or non-economic activity other than working as a taxicab operator, such as taking time off for personal travel or making a change in employment to another industry);

- (2) The applicant either:
 - (A) Has never made a request to the Department for a new or “returned” DFHV taxicab vehicle license or to DMV for new or “returned” “H” tags because the applicant reasonably believed the request would have been futile; or
 - (B) If the applicant made a request to the Department for a new or “returned” DFHV taxicab vehicle license or to DMV for new or “returned” “H” tags, the applicant did so within twelve (12) months following the first business day after the circumstances giving rise to the *bona fide* reason identified in subpart (1) (C) of this part have ended (for example, within twelve (12) months following the first business day after the applicant *returned* from *bona fide* travel that enabled the applicant to provide necessary care and assistance to an ailing family member who resided in a foreign country);
- (b) The applicant has possessed a current and valid DFHV taxicab operator’s license continuously and without interruption since at least the earliest date by which the Department determines that the *bona fide* reason, identified in subpart (1)(C) of this part, would have no longer have prevented the applicant from operating a taxicab, through the date of the application;
- (c) The applicant participates in Transport DC (CAPS-DC) for a period of not less than three (3) years from the date the vehicle license is issued, and executes a written a dispatch agreement with a taxicab company participating in Transport DC, during which time the vehicle shall be in continuous active service and available for dispatch in accordance with all of the applicable operating requirements of § 1806;
- (d) The applicant uses the DFHV taxicab vehicle license to operate vehicles as follows, which the applicant shall acknowledge in writing:
 - (1) At the time the license is issued, the applicant shall place into service a new electric vehicle;
 - (2) At the time the license is issued, the applicant shall place into

service, notwithstanding any contrary provision of § 609 or Chapter 18, a wheelchair accessible vehicle not more than two (2) model years older than the current calendar year, or such earlier model year, as the Department may establish in an administrative issuance; or

- (3) At the time the license is issued, the applicant shall place into service any vehicle which complies with § 609.7, provided however, that when the applicant has completed three thousand (3,000) Transport DC trips among any number of vehicles, the applicant shall purchase and place into service a new wheelchair accessible vehicle;
- (e) If the applicant is not a District resident, the applicant shall form and maintain an independent vehicle business, if such a business is then authorized by the provisions of this title, in order to comply with the DMV requirements for registering the vehicle in the District;
- (f) The Department shall deny the application of an applicant who, in connection with an application under this subsection, makes a written or oral material misrepresentation to the Department or who fails to cooperate fully with the Department. “Cooperate” means timely and fully answer the Department’s questions and timely provide additional information and documentation required by the Department;
- (g) The Department shall make a decision to grant or deny an application within twenty one (21) calendar days of the date on which the application is filed, provided however, that the failure to comply with this deadline shall not be a ground for the issuance of any DFHV license to any person; and
- (h) A vehicle license issued under this subsection shall be subject to suspension or revocation if, at any time or for any reason, the vehicle or the applicant fails to comply with the provisions of subparts (c), (d), (e), or (f) (only as to written or oral material misrepresentations, not for lack of cooperation).

Chapter 18, WHEELCHAIR ACCESSIBLE PARATRANSIT TAXICAB SERVICE, is amended as follows:

Section 1806, TAXICAB COMPANIES AND OPERATORS – OPERATING REQUIREMENTS, is amended as follows:

Subsection 1806.8 is amended to read as follows:

1806.8 Each company shall maintain with the Department a current and accurate inventory of all active operators and vehicles approved for and providing Transport DC service, including all vehicles associated with the company pursuant to a dispatch agreement under §§ 1010.17, or 1010.20 updated in such

manner and at such times as determined by the Department, with the following information:

- (a) For each operator: name, cellular telephone number, DFHV operator's license number, and an indication of whether the operator has completed the wheelchair service training pursuant to § 1806.6, and, if so, the date of completion; and
- (b) For each vehicle: year, make, model, color, PVIN, tag number, and an indication of whether the vehicle is wheelchair accessible.

Chapter 99, DEFINITIONS, is amended as follows:

Section 9901, DEFINITIONS, is amended as follows:

Subsection 9901.1 is amended to add the following definition:

“Department of For-Hire Vehicles”, “Department” or “DFHV” - the Department established under § 5 of the District of Columbia Taxicab Commission Establishment Act of 1985, effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code § 50-301.04 (2014 Repl. & 2015 Supp.)) and which replaced the D.C. Taxicab Commission and the Office of Taxicabs with the enactment of the Transportation Reorganization Amendment Act of 2016, effective June 22, 2016 (D.C. Law 21-0124).