

DEPARTMENT OF FOR-HIRE VEHICLES

NOTICE OF THIRD EMERGENCY RULEMAKING

The Acting Director of the Department of For-Hire Vehicles (“Department” or “DFHV”) pursuant to the authority set forth in Sections 8(c) (2), (7), (19) and (20), 14, and 20l, of the District of Columbia Taxicab Commission Establishment Act of 1985 (“Establishment Act”), effective March 25, 1986, effective March 10, 2015 (D.C. Law 6-97), as amended by the Transportation Reorganization Act of 2016, effective June 22, 2016 (D.C. Law 21-0124); D.C. Official Code §§ 50-301.07(c) (2), (7), (19) and (20), 50-301.13, and 50-301.29 (2012 Repl. & 2015 Supp.), hereby gives notice of adoption, on an emergency basis, amendments to Chapter 7 (Enforcement) and Chapter 16 (Dispatch Services and District of Columbia Taxicab Industry Co-op) of Title 31 (Taxicabs and Public Vehicles For Hire) of the District of Columbia Municipal Regulations (DCMR).

This notice of third emergency rulemaking amends Chapter 16 to establish a new requirement in § 1605 that all digital dispatch services (DDSs) provide the Department with one or more bonds to secure the payments to the District of taxicab surcharges and one percent of gross receipts required by § 1604.7 and the Establishment Act, which are vital to support the operations of the Department. The Department finds there is an immediate need to preserve and promote the safety and welfare of District residents by ensuring that bonds be provided to the Department by all DDSs to secure the payments of taxicab surcharges and one percent of gross receipts, as required by § 1604.7 and the Establishment Act, to reduce the possibility that the District will fail to receive a required payment.

The Department finds it necessary to impose this requirement after two incidents in which businesses obligated to make payments of surcharges or one percent of gross receipts failed to do so. In one incident, a payment service provider (“PSP”) ceased operations in the District without paying all owed taxicab surcharges, but, because it had provided the Office of Taxicabs (“Office”)¹ with a bond pursuant to Chapter 4 of Title 31, the Office was able to recover a substantial portion of the unpaid surcharges. In a more recent incident, a DDS for private sedans ceased operations while still owing a payment for one percent of gross profits. Because DDSs are not required under the current, permanent (non-emergency) rules in Chapter 16 to provide a bond, when the DDS ceased operations, there was no bond available cover its outstanding payment. To prevent a recurrence, the new bond requirement applies to all DDSs, including all those which are currently registered with the Department. This rulemaking also amends Chapter 7 to add an enforcement provision allowing the Department to suspend the registration of a registered digital dispatch service which fails to provide a bond within the time required under the new rules in § 1605.

A notice of emergency and proposed rulemaking was adopted by the Commission on February 10, 2016, and took effect immediately. The notice was published in the *D.C. Register* on May 13, 2016 at 63 DCR 007335, and remained in effect as emergency rulemaking for one

¹ The District of Columbia Taxicab Commission and the Office of Taxicabs were 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.

hundred and twenty (120) days after the date of adoption (expiring June 9, 2016). A second emergency rulemaking, which expires on October 27, 2016, was adopted by the Department on June 29, 2016 and took effect immediately. This third emergency rulemaking, which supersedes the second emergency rulemaking adopted by the Department on June 29, 2016, was adopted by the Department on October 6, 2016 and shall remain in effect for one hundred and twenty (120) days after the date of adoption (expiring on February 3, 2017) unless earlier superseded by an amendment or repeal by the Department, or the publication of final rulemaking, whichever occurs first. A notice of final rulemaking was adopted by the Department on June 29, 2016 but has not yet been published in the *D.C. Register*.

This third emergency rulemaking is identical to the second emergency rulemaking adopted by the Department on June 29, 2016.

CHAPTER 7, ENFORCEMENT, of Title 31, TAXICABS AND PUBLIC VEHICLES FOR HIRE, of the DCMR is amended as follows:

A new section 716 is added to read as follows:

716 IMMEDIATE SUSPENSION OF A DIGITAL DISPATCH SERVICE REGISTRATION

716.1 In addition to any other enforcement action available under this chapter, a digital dispatch service registered with the Department under § 1605 which fails to comply with § 1605.6 shall be subject to the immediate suspension of its registration until the digital dispatch service provides the Department with the bond(s) required by § 1605.5, consistent with any applicable administrative issuance.

Chapter 16, DISPATCH SERVICES AND DISTRICT OF COLUMBIA TAXICAB INDUSTRY CO-OP, of Title 31, TAXICABS AND PUBLIC VEHICLES FOR HIRE, of the DCMR, is amended as follows:

Section 1605, DIGITAL DISPATCH SERVICES – REGISTRATION, is amended as follows:

Subsection 1605.5 is amended to read as follows:

- 1605.5 Each registration application form filed under § 1605.3 shall be:
- (a) Executed under oath by an individual with authority to complete the filing;
 - (b) Accompanied by a filing fee of five hundred dollars (\$500) regardless of the number of vehicle-for-hire services dispatched by the digital dispatch service; and

- (c) Accompanied by one (1) or more bond(s) naming the District of Columbia as obligee for the purpose of securing the amount(s) owed to the District pursuant to § 1604.7. Such bond(s) shall:
 - (1) Be in effect throughout the digital dispatch service’s registration period and for one (1) year thereafter; and
 - (2) Be in the amount of:
 - (A) For taxicabs: one hundred thousand dollars (\$100,000); and
 - (B) For each public or private vehicle-for-hire service other than taxicabs:
 - (i) Two hundred fifty thousand dollars (\$250,000); or
 - (ii) Pursuant to an administrative issuance, one hundred thousand dollars (\$100,000) to two hundred fifty thousand dollars (\$250,000), inclusive, if the digital dispatch service voluntarily maintains with the Department current information relevant to establishing a risk profile for the non-payment of amount(s) owed to the District pursuant to the § 1604.7, such as the number of the digital dispatch service’s associated vehicles.
- (d) Notwithstanding the requirements of paragraph (c) of this subsection, a bond shall not be required during the first six (6) months that any business digitally dispatches rides pursuant to a donation agreement with the Department or a live field testing program approved by the Department pursuant to § 1612.6 *et seq.*

Existing subsections 1605.6 through 1605.9 are renumbered as subsections 1605.7 through 1605.10.

A new Subsection 1605.6 is added to read as follows:

1605.6 Not later than thirty (30) days after the effective date of these regulations, each digital dispatch service registered with the Department shall provide such bond(s) to the Department as are required by § 1605.5.

A new Subsection 1605.11 is added to read as follows:

1605.11 A claim may be made by the Department against any bond provided by a digital dispatch service pursuant to § 1605.5 for any amount owed to the District of

Columbia by the digital dispatch service under § 1604.7 which remains unpaid for more than thirty (30) days. The Department shall give written notice to the digital dispatch service of its intent to make a claim against a bond not less than ten (10) days prior to taking the action.