



DEPARTMENT OF
FOR-HIRE VEHICLES

PUBLIC REPORT:

**NOTICE OF PROPOSED RULEMAKING
FOR THE REVISION OF TITLE 31 OF
THE D.C. MUNICIPAL REGULATIONS**

FOR-HIRE VEHICLES

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I. INTRODUCTION

The Department of For-Hire Vehicles¹ (“DFHV”) today proposes rulemaking to revise Title 31 of the D.C. Municipal Regulations. The revision retains the substance of the existing rules while reorganizing and restructuring the text to make it easier for consumers and industry members to find and understand the regulations they need. The notice of proposed rulemaking² also incorporates all prior notices of proposed and final rulemaking that have been approved by the Department through this date.

The revision was long overdue. Numerous portions of the existing title impose burdens on stakeholders in excess of what is needed to minimally regulate the industry. Many regulations are obsolete, confusing, internally inconsistent in terminology and style, and establish standards of conduct that prevent effective business planning by stakeholders based on accepted industry best practices. Legacy rules of this type raise costs both directly by increasing time and effort for compliance and indirectly by deterring new market entrants whose participation would otherwise stimulate competition.³

Even the name of the current title is obsolete – “Taxicabs and Public Vehicles for Hire”. Taxicabs are no longer the primary source of for-hire rides; even when combined with the rest of the public for-hire industry now consisting of limousine and black car service, taxicabs now provide only a minority share of for-hire rides in the District. Private sedan businesses – what other jurisdictions call “TNCs” – like Lyft, Split, and uberX – are the dominant ride source. These businesses have been operating in the District for more than three years and their rides have been subject to minimal regulation by DFHV since March 10, 2015.⁴ The clear trend is for ever-increasing use of apps among users of all for-hire services. The Department has changed as well, in far more name. The DFHV now oversees a spectrum of public and private ride services, manages programs to ensure accessibility and service in underserved areas, and commands a full complement of vehicle inspection officers who provide 24/7 street enforcement.

The Title 31 revision was prepared to: minimize regulatory burden; protect safety and consumer interests; promote accessibility; ensure industry payment for the Department’s authorized sources of funding; support continually-evolving customer choice; rewrite with reference to the best practices of other major jurisdictions; and promote healthy and fair competition across the *entire* for-hire spectrum. The notice of proposed rulemaking also incorporates all notices of proposed and final rulemaking approved by DFHV and pending as of this date.⁵

II. METHODOLOGY FOR REVIEW AND REVISION

Reducing Industry Costs

By focusing on streamlining processes and eliminating redundancies in Title 31, administrative costs will inevitably decrease. The review of Title 31 looked for approval processes, equipment requirements, or any other overly burdensome costs that could be reformed, replaced, or eliminated with a more cost effective option.

Identifying Antiquated Technology

Redrafting the rules to improve administrative efficiency and help to level the playing field were central to the review of Title 31. Identifying antiquated technology, such as traditional taximeters, and allowing or mandating the use of new technologies such as digital taximeters, will both improve the efficiency of the title and help level the playing field within the industry. Old and inefficient processes and technologies were identified and provisions proposed to substitute modern practices and new technologies.

Aligning with Best Practices

The substantive provisions of Title 31⁶ were scrutinized for necessity and compliance with both the applicable legal requirements and the current vehicle for-hire industry best practices. The approaches for other major jurisdictions were considered and analyzed to provide the District of Columbia with the best model on which to base its revision of the title. Cities across the United States rely on the vehicle-for-hire industry as part of their transportation networks, utilizing effective regulation to ensure service is delivered smoothly and efficiently. During the review of Title 31, regulations and practices in New York City, Chicago, San Francisco, and Miami were considered. Ideas borrowed from these cities include making it easier for the Department to adopt new technologies to help businesses, resolving problems around the use of taxicab stands near hotels and airports, minimizing the documentation required to apply for a DFHV license, and clarifying the Department's use of administrative issuances where rulemaking is not required.

Eliminating Redundancy

Written over the course of the Department's 30 year history,⁷ the existing Title 31 has been revised over 135 times just since September 30, 2011.⁸ Many of these changes grafted new concepts onto old ones as statutory law changed⁹ and the industry progressed. The result is a patchwork of old and new rules comprised of 18 chapters, and containing 249 regulations spread across 442 pages.¹⁰ This has resulted in redundancy in numerous and substantial portions of the title, and many provisions imposing a burden in excess of what is needed to minimally regulate the vehicle for-hire industry while maintaining high safety standards and consumer protections. Obsolete, confusing, and internally inconsistent terminology which establish both redundant and incompatible standards of conduct were either eliminated or rewritten for ease of understanding.

Rewriting into Plain Language

In addition to eliminating redundancy, the re-draft largely focused on removing confusing, vague, or antiquated language. This allowed us to replace any unclear words or phrases with simple, easy to understand language, which will improve the readers' ability to comprehend the rule, and take the necessary steps to comply.

Modifying to Promote Fair Competition

In re-drafting Title 31, language changes were proposed to promote fair competition and equity among stakeholders. Examples include the creation of universal licensing sections for operators, vehicles, and businesses to standardize common procedures and implement equitable processes in the industry, and the creation of a single chapter combining the principles of for equal access for

all vehicles-for-hire reflecting the importance of the common requirement that no participant in the District's for-hire industry may discriminate in the provision of service to the community.

Overall Changes

All legacy rules and regulations in Title 31 that were considered difficult to understand or unnecessary were rewritten or eliminated. Where a legislative change is required for the proposed change in the rules, the regulation is written to make obligations on stakeholders conditional on the Department's authority. Rules were also organized into a more intuitive layout, which included the following, among other things:

- Unifying similar content;
- Reducing redundancy;
- Rewriting in plain language;
- Simplifying formatting and organization;
- Using consistent numbering and titles; and
- Clarifying titles for ease of use and consistency.

IV. SUMMARY OF THE REVISION

Chapter 1: Rules of Interpretation, Definition, General Requirements, and Prohibitions¹¹

The existing Chapter 1 provided for the membership of the now-defunct DCTC and for its rules of organization. To help users of the regulations understand the new title, Chapter 1 now functions as a sort of users guide for the rest of Title 31, providing rules of interpretation, and general provisions for interpreting the rules, such as referencing administrative issuances. Chapter 1 also eliminates repetitive uses of the same requirements throughout the title. For example, in several chapters, users are advised that "where there is a conflict between two provisions, the more restrictive provision shall control, unless otherwise provided." This provision was eliminated throughout Title 31 and added a rule of interpretation in the new Chapter 1.

An important change involves the definitions for the title. To help people understand terms of art and other commonly used terms, definitions were moved from Chapter 99 to the front of the title, where they are prominent. Within the definitions, acronyms and abbreviations were combined with the whole words to reduce repetition and confusion. New definitions were added for entities discussed in the rules. Definitions of terms no longer needed were deleted. It is important for users of the title to read and understand the definitions as they are integral parts of the legal obligations and rights created by the regulations.

To reduce repetition throughout the chapters, general requirements for all licensees, permit holders, or persons with authority were outlined in chapter one. These requirements were added to Chapter 1, made applicable to the entire title, and removed from the other chapters. For example, there is a general requirement that every licensee must maintain business records.

As with general requirements, there are general prohibitions applying to all licensees, permit holders or persons with authority from DFHV. These general prohibitions were added to Chapter 1, were removed from other chapters and are applicable to the entire Title 31.

Chapter 2: Former D.C. Taxicab Commission Organization and Meetings¹²

The existing Chapter 2 had been repealed, but originally had addressed the “Panel on rates and rules: rules of organization and rules of procedure for ratemaking.” The new chapter has been revised to be consistent with the organizational requirements of the Transportation Reorganization Amendment Act of 2015 (“TRAA”), the For-Hire Vehicle Advisory Council. The Public Vehicles For-Hire Consumer Service fund, former Chapter 11, was moved to this chapter because this fund is used to pay for the Department’s activities.

*Chapter 3: Compliance and Enforcement*¹³

Chapter 3 is now reserved and does not have any regulations. This chapter is the new location for Chapter 7 “Enforcement”, renamed “Compliance and Enforcement,” to more accurately describe its provisions. One of the enhancements in the regulations is to allow the Department to take more actions through administrative issuances when rulemaking is not required, to allow DFHV to more nimbly and efficiently adapt to changes in the industry. The provisions for administrative issuances now better defines their use and purpose.

*Chapter 4: Office of Hearing Examiners*¹⁴

Chapter 4 contains all of the rules establishing the Office of Hearing Examiners (“OHE”). OHE will be an independent office within the Department charged with adjudicating certain types of contested matters. This chapter also defines the jurisdiction of the OHE and outlines the procedures for adjudicating case before the OHE.

*Chapter 5: Civil Fines*¹⁵

All civil fines imposed by the Department for violations of the Title 31 and other applicable laws can now found in the Civil Fines Chart in this chapter.

*Chapter 6: Equal Access to For-Hire Vehicles*¹⁶

The existing Chapter 6 regulated taxicab parts and equipment. The new proposed Chapter 6 would merge all of the Title 31 public vehicle-for-hire accessibility requirements and non-discrimination requirements into a single chapter. To stress the importance of providing service to the public in a non-discriminatory manner, the new chapter appears first in the title, as the first chapter substantive chapter.

The new chapter establishes requirements taxicab operators must meet, prior to providing wheelchair service, including the completion of approved training and passing a written examination. The chapter requires that each taxicab company offer wheelchair service training to its associated operators, provide reasonable incentives to operators to obtain such training, and ensure that operators conducting accessible services are licensed, trained, and using a vehicle approved for accessible services.

The chapter broadly prohibits discrimination by private and public vehicle-for-hire operators, companies, and other entities regulated by DFHV. Discrimination is prohibited based upon certain protected traits such as race, color, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, family status, family responsibilities, matriculation, political affiliation, genetic information, disability, or source of

income, or place of residence or business. Geographic discrimination and discrimination against service animals is also prohibited.

*Chapter 7: Dispatch Services*¹⁷

The existing Chapter 7 contained regulations about enforcement, now moved to Chapter 3. With the growing use of apps to connect with both public and private vehicles-for-hire, the proposed new Chapter 7 regulates Dispatch Services, including digital dispatch, previously located in Chapter 16. Digital dispatch services continue to be lightly regulated by the Department for the safety of customers, drivers, and the public, and for consumer protection.

*Chapter 8: Public Vehicle Operator's Licensing and Operating Requirements*¹⁸

The existing Chapter 8 regulates the operation of public vehicles-for-hire. The new chapter unifies the application processes for all individuals applying to provide public vehicle-for-hire service, by combining various requirements currently spread across the entire title. The application process will require applicants to submit uniform documentation and individual information. Application requirements continue to include payment of all outstanding assessments, fines, taxes, fees, penalties, or interest owed to the District in excess of \$100, a requirement of the Clean Hands Act. Proof of insurance is required. More specific requirements are provided depending on the type of license sought, such as a taxicab, black car, limousine, Xclass service.

*Chapter 9: Public Vehicle-For-Hire Insurance*¹⁹

The proposed chapter is the same as the existing Chapter 9, continuing to establish the requirements for public vehicle-for-hire insurance hire, with no substantive changes from the existing rules in this chapter.

*Chapter 10: Public Vehicle For-Hire Licenses and Operations*²⁰

Current Chapter 10 regulates public vehicle for hire operator's and vehicle licenses. To make the regulations easier to use, the licensing and operating requirements for operators and the licensing and operating requirements for vehicles were separated and placed into separate chapters. The proposed new Chapter 10 would regulate public for-hire vehicle licenses and operations, and would apply to all classes of public vehicles-for-hire except Xclass. Among its provisions are that each owner of a public vehicle-for-hire obtain a DFHV vehicle license and meet requirements such as:

- Rules to increase efficiency, accessibility, safety, and consumer protection;
- Vehicle tag and certain equipment requirements;
- Vehicle type requirements;
- Vehicle condition and age (retirement) requirements;
- Signage, marking, and advertisement;
- Inspection and safety requirements; and
- Vehicle retirement rules.

*Chapter 11: Public Vehicle-for-Hire Business Licenses*²¹

The existing Chapter 11 regulates the Public Vehicles for Hire Consumer Service Fund. The proposed Chapter 11 would regulate public vehicle-for-hire business licenses, creating a central and uniform application process for all independent owners and business entities that apply for operating certificates to operate taxicabs, limousines, and black cars. The type of vehicle licenses sought would determine, for independent and business applicants, the class of public vehicle-for-hire business. The application process would require applicants to submit uniform documentation and information. The new chapter would also provide additional and specific operating requirements for each class of public vehicle-for-hire service, except taxicab businesses. Additional operating requirements for taxicab such as fares, vehicle leasing standards, and temporary vehicle decommissioning standards, were separated from public vehicle-for-hire general requirement and appear in Chapter 12. Some of the requirements for the business licenses would be:

- A uniform business data storage requirement;
- Uniform and general operating requirements for businesses; and
- Specific limousine and black car business requirements, such as rates and notification requirements integrated into standalone sections.

*Chapter 12: Taxicab Companies, Associations and Independent Owners*²²

The existing Chapter 12 regulates luxury services (black car and limousine) owners, operators and vehicles. The new Chapter 12 would incorporate all operating requirements unique to taxicab businesses, associations, and independently owned taxicabs. These requirements are not found in the general operating requirements for public vehicle-for-hire. General operator requirements for all public vehicle-for-hire operators were removed from taxicab operation requirements and integrated under uniform provisions found in Chapter 8. The new chapter clarifies the existing decommissioning requirements for vehicles withdrawn from service based on time the vehicle when not in use for as a taxicab; defining temporary withdrawal from service to mean six months or less. The new decommissioning requirements also introduce H-tag storage guidance when vehicles are temporarily withdrawn from service. Taxicab business transfer requirements and procedures appear in the new chapter. Consumer service and passenger requirements are clarified, with both the operator and the business sharing responsibilities for the quality of service.

*Chapter 13: Taxicab Parts And Equipment*²³

The existing Chapter 13 regulates licensing and operations of taxi meter companies. The proposed new chapter would regulate parts and equipment for taxicabs, establish general vehicle specifications, and require all taxicabs to maintain an electronic manifest. The new Chapter 13 also requires that each vehicle operate only through the use of a taximeter and modern taximeter system (“MTS”) system, or a digital taxicab solution (“DTS”) approved by the Department pursuant to an administrative issuance. The new chapter also requires that all taxicabs:

- Be equipped with an approved dome light or uniform cruising light;
- Be inspected annually;
- Meet age and mileage retirement requirements (with no extensions) and
- Have all equipment in working order.

*Chapter 14: Taxicab Equipment Businesses*²⁴

The existing Chapter 14 rules covered the operation of black cars. The proposed Chapter 14 regulates payment service providers (“PSPs”), taximeter companies and dome light companies (together “taxicab equipment businesses”). The new chapter combines all of the requirements for taxicab equipment businesses into one chapter and is comprised of the Chapter 4 rules for PSPs, the Chapter 13 rules concerning taximeters and existing Chapter 15 dome lights regulations. Chapter 14 as revised would create uniform standards for taxicab equipment businesses including for licensing, eligibility requirements, operating requirements and operating prohibitions. The new chapter also outlines requirements and prohibitions unique to the different types of companies.

Chapter 15: Reserved

The existing Chapter 15 regulating the licensing and operations of dome light installation companies. Chapter 15 would now contain the rules for the pilot program for dispatched public vehicles-for-hire known as Xclass.

*Chapter 16: Private Vehicles-for-Hire*²⁵

The existing Chapter 16 regulates dispatch services and the D.C. Taxicab Industry Co-Op. The new Chapter 16 would be comprised of the former Chapter 19 governing private vehicles for hire. Private vehicles are regulated by the D.C. Code and no substantial changes were made to the existing regulations.

*Chapter 17: Fees and Bonds Chart*²⁶

There is currently no Chapter 17 in Title 31. The proposed Chapter 17 contains a chart collecting all of the fee and bond requirements existing throughout Title 31, placing them in a single chapter to make them easier to find.

V. CONCLUSION

The existing Title 31 regulations are a hodgepodge of rulemakings from the last few decades. Since the creation of the Taxicab Commission 30 years ago, there has not been a coordinated effort to update and streamline the entire title in order to make it easier for industry members and the riding public to know and use the for-hire regulations. While the revision of Title 31 is largely an exercise in transparency to replace regulations with confusing and antiquated language with more concise and updated rules written in plain language, the Department has also taken the opportunity to remove or modify requirements that are outdated or obsolete with reference to the best practices of other major jurisdictions. The revision also includes all pending proposed and final rulemakings approved by the Department – but not yet published in the *D.C. Register* – as of this date. By seamlessly incorporating all pending proposed and final rulemakings approved as of the date of this Report, the notice of proposed rulemaking to revise Title 31 provides the Department’s complete vision for the District’s for-hire industry for 2017 and forward.

¹ Pursuant to the Transportation Reorganization Amendment Act of 2015 (“TRAA”) (D.C. Law 21-0124), the former D.C. Taxicab Commission and Office of Taxicabs have been reorganized into a single new agency: the D.C. Department of For-Hire Vehicles (“agency”, “Department”, or “DFHV”). The Commission is replaced with an advisory body – the For-Hire Vehicle Advisory Council – to meet quarterly, once appointed. The bill also modifies certain Commission functions and creates statutory offices within the Department. For simplicity, we shall generally refer to the “Department” even as to events prior to the TRAA.

² Although the rulemaking is proposed only, for brevity, we shall generally refer to it as the “revision”.

³ See generally Farren, Koopman, and Mitchell, RETHINKING TAXI REGULATIONS: THE CASE FOR FUNDAMENTAL REFORM (2016) (available at http://mercatus.org/sites/default/files/Farren_Taxi_FINAL.pdf) at 7-8 (“Rethinking Regulations”).

⁴ See Vehicle-For-Hire Innovation Amendment Act of 2014 (D.C. Law 20-0197).

⁵ The following pending notices of final and proposed rulemaking are incorporated in the rulemaking:

- Final rulemaking for Chapters 9 and 14: Electronic insurance information;
- Final rulemaking for Chapter 9: Insurance requirements aligned to Department of Insurance, Security and Banking rules;
- Emergency and proposed rulemaking for Chapters 4,5,6,8,20, and 19: Modernization rules;
- Final rulemaking for Chapters 5 and 99: Enhanced customer service standards;
- Final rulemaking for Chapters 10, 18, and 99: Transport DC for companies;
- Final rulemaking for Chapters 10, 18, and 99: H-tags for persons who surrendered them;
- Final rulemaking for Chapter 7: Service of enforcement actions within the District;
- Final rulemaking for Chapters 7 and 16: Establishes DDS surcharges payment bonds;
- Final rulemaking for Chapters 8 and 16: Digital meter shared ride calculation method;
- Final rulemaking for Chapters 10, 12, and 99: Provisional LCS operator’s license;
- Emergency and proposed rulemaking for Chapter 18: Transport DC fares, limits vehicle purchase rules;
- Emergency and proposed rulemaking for Chapter 20: Reinstates fines for serious violations;
- Final rulemaking for Chapters 5, 12 and 99: Establishes independent vehicle businesses;
- Proposed rulemaking for Chapters 16, 20, 22, and 99: Creates Xclass;
- Proposed rulemaking for Chapter 7: Mediation;
- Final rulemaking for Chapter 12: Limousine trip data requirements;
- Final rulemaking for Chapter 21: Establishes the DFHV Office of Hearing Examiners; and
- Proposed rulemaking for Chapters 4 and 8: PSP performance standards.

⁶ Substantive provisions are those establishing rules of conduct for industry participants and consumers in connection with the provision of for-hire services, to be distinguished from procedural provisions such as those dealing with due process.

⁷ The Commission was created by the District of Columbia Taxicab Commission Establishment Act of 1985 (“Establishment Act”), eff. March 25, 1986 (D.C. Law 6-97; D.C. OFFICIAL CODE §§ 47-2829 and 50-301 *et seq.*).

⁸ This includes all unique rules that completed the APA process for notice and comment rulemaking, and all unique emergency rules (excluding reenacted emergency rules).

⁹ As discussed in the text, in addition to the TRAA, there have been three other important amendments to the Establishment Act within the past four years: the Taxicab Service Improvement Amendment Act of 2012, the Public Vehicle for Hire Innovation Amendment Act of 2012, and the Vehicle for Hire Innovation Amendment Act of 2014.

¹⁰ These numbers do not include provisions marked “reserved” or “repealed”.

¹¹ New Chapter 1 is comprised of new sections for Rules of Interpretation and General Requirements and Prohibitions. Definitions were moved from current Chapter 99.

¹² New Chapter 2 is comprised of the existing Chapter 1 regulating the Commission and Chapter 11 regulating the Public Vehicle for Hire Consumer Service Fund.

¹³ New Chapter 3, renamed “Compliance and Enforcement,” is comprised of current Chapter 7 “Enforcement.”

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- ¹⁴ New Chapter 4 is comprised of pending Chapter
- ¹⁵ New Chapter 5 is comprised of the fines from existing Chapter 20 and from throughout Title 31.
- ¹⁶ New Chapter 6 is comprised of the accessibility requirements of existing Chapter 18 and anti-discrimination provisions from throughout Chapter 31.
- ¹⁷ New Chapter 7 is comprised of the provisions of the current Chapter 16.
- ¹⁸ New Chapter 8 is comprised of the provisions of the current Chapter 8 pertaining to customer service and Chapter 10 pertaining to the licensing of public vehicle-for-hire operators.
- ¹⁹ New Chapter 9 is comprised of the insurance requirement provisions from existing Chapter 9.
- ²⁰ New Chapter 10 is comprised of the vehicle-for-hire licensing and vehicle provisions from current Chapter 8.
- ²¹ New Chapter 11 is comprised of the Public Vehicle for Hire Business licensing provisions from current Chapters 12 and 14.
- ²² New Chapter 12 is comprised of the provisions of existing Chapter 5 regulating taxicab companies, associations and independent owners.
- ²³ New Chapter 13 is comprised of provisions from the current Chapter 6 regulating equipment required in taxicabs.
- ²⁴ New Chapter 14 is comprised of provisions from the current Chapter 4 regulating payment service providers, the existing Chapter 13 regulating taximeter companies and the current Chapter 15 regulating Dome light Companies.
- ²⁵ New Chapter 16 is comprised of provisions from existing Chapter 19 regulating private vehicles for hire.
- ²⁶ New Chapter 17 is comprised of fine and bond regulations from Title 31.