

DEPARTMENT OF FOR-HIRE VEHICLES

NOTICE OF SIXTH EMERGENCY AND PROPOSED RULEMAKING

The Director of the Department of For-Hire Vehicles (“Department” or “DFHV”) pursuant to the authority set forth in Sections 8(c) (2), (3), and (19), and 14 of the District of Columbia Taxicab Commission Establishment Act of 1985 (“Establishment Act”), effective March 25, 1986 (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) (3), and (19), and 50-301.13 (2014 Repl. & 2015 Supp.)) hereby gives notice of the adoption, on an emergency basis, of amendments to Chapter 4 (Taxicab Payment Service Providers), Chapter 5 (Taxicab Companies, Associations, Fleets, and Independent Taxicabs), Chapter 6 (Taxicab Parts and Equipment), Chapter 8 (Operating Rules for Public Vehicles-For-Hire), Chapter 15 (Licensing and Operations of Dome Light Installation Companies), Chapter 18 (Wheelchair Accessible Paratransit Taxicab Service), Chapter 20, (Fines and Civil Penalties), and Chapter 99 (Definitions) of Title 31 (Taxicabs and Public Vehicles For Hire) of the District of Columbia Municipal Regulations (DCMR).

This sixth emergency rulemaking amends Chapters 4, 5, 6, 8, 15, 18, 20, and 99, the Department’s regulations promulgated consistent with the “Modernization of Taxicabs” section of the Establishment Act, added by the Taxicab Service Improvement Amendment Act of 2012, D.C. Law 19-0184 (eff. October 27, 2013) (codified at D.C. OFFICIAL CODE § 50-301.26) and for related purposes. This is the first major overhaul of these regulations (the “modernization regulations”) since they were promulgated. This overhaul is required for the reasons stated below; conforming amendments are also required for Chapters 20 and 99. The Department finds that rulemaking must be enacted as emergency rulemaking because there is an immediate need to preserve and promote the safety and welfare of District residents, in order to directly and indirectly alleviate the rapidly-deteriorating competitive position of taxicabs in the District’s vehicle-for-hire industry, and to accomplish other lawful objectives within the jurisdiction of the Department, by: (1) incentivizing the prompt transition from legacy taxicab equipment to newer equipment that meets the challenges of today’s for-hire market – including replacing modern taximeter systems (“MTSs”) with new digital taxicab solutions (“DTSSs”), and replacing the patented and licensed universal dome light with a lower-cost vehicle light – to attract more customers, lower regulatory barriers, and increase owner and driver revenue; (2) incentivizing the purchase of 100% electric vehicles, wheelchair accessible vehicles – including the additional accessible vehicles which must be purchased by taxicab companies not later than December 2016, vehicles that serve underserved communities, and other vehicles participating in the Department’s programs, by amending the uniform color rules to allow for modifications that enhance vehicle identification and appearance, promoting and growing participation in these programs; (3) shifting the responsibility for providing payment and meter systems from payment service providers (“PSPs”) that market the MTS systems to taxicab companies and, eventually, to the D.C. Taxicab Industry Co-op (“Co-op”) – for the purpose of promoting competition and innovation among a group of businesses that also have more direct ties to the District’s taxicab industry, thereby helping to improve customer service; (4) beginning a transition period ending October 31, 2017, from legacy technologies to new technologies – which will involve

all 7,500 or so of the District's taxicabs – for the purpose of minimizing disruption to stakeholders and customers during the transition; (5) ensuring consistency between Title 31 and the Establishment Act; (6) incentivizing the prompt availability of DTSs which – unlike systems that use legacy taximeters – facilitate shared taxicab rides without the need for reprogramming at a meter shop; (7) enhancing safety by incentivizing the early adoption of innovative technologies that integrate with autonomous and semi-autonomous vehicle control systems; (8) enhancing the Department's ability to verify a vehicle's location and status – at such times when the operator is on duty – thereby improving safety, consumer protections, and regulatory compliance, including compliance with the rules prohibiting discrimination through refusal to haul; and (9) providing an extended opportunity for advance business planning by vehicle owners in selecting the equipment they wish to use in their vehicles during the transition period, and by PSPs in deciding how they wish to continue participating in the industry during and/or after the transition – beyond the opportunity created by the notice and comment requirements for proposed rulemaking – in light of the termination of the PSP/MTS program in 2017. The legal authority and policy reasons for the regulatory actions taken herein are illustrative but not exclusive of those which support the actions.

There is no question that the “Modernization of Taxicabs” legislation and the original modernization regulations were a necessity. In 2012, the District's taxicab fleet had a well-deserved reputation for poor service, dirty vehicles, a lack of payment options, and a disregard for regulatory requirements. The original rules brought the fleet into line with other major jurisdictions by establishing basic requirements that vehicles display a uniform color design – to give street hail passengers an assurance that the driver is known to authorities, that vehicles be outfitted with lights displaying the vehicle's number and its availability – to make it easier to hold drivers accountable for violations including ignoring hails, and that vehicles be equipped with meter systems that allow passengers to pay by credit card, in addition to cash.

But the original regulations merely created a floor for taxicab service in the District that was already enjoyed in other major cities, one which the District's residents and visitors had – for far too long – been viewing from the basement. It is now several years later and the time has come to move past the original regulations, which got the industry over its initial hurdles. The pace of for-hire innovation in the past several years, the realities of the current market that now include lawful competition from private vehicles, and the increasing challenges of earning a living by driving a taxicab have combined to render the original modernization regulations obsolete. There has been a continuous decline in total monthly taxicab rides – month after month for the past 12 months – without interruption. Driver revenue continues to fall. At the current rate, the Department projects that 2016 will show a 13 percent decline in annual taxicab rides compared to 2015.

There is no question that major changes must start immediately as they will involve all stakeholders and affect all passengers. If the industry is to remain viable and continue to provide residents and visitors with the services that it alone provides, it must begin the long process of moving on from MTSs and patented dome lights to lower-priced, innovative technologies to improve revenue, increase customer choice, support the growth of accessible vehicles, and open the door to future innovations. With this in mind, the Department has carefully considered the next steps.

First, PSPs have failed to engage in meaningful competition to benefit drivers, owners, and customers, which was one of the primary purposes of the program when it was created. At that time, the Department observed in this regard that “marketplace competition can provide taxi operators with options that may result in lower costs for equipment, installation and transaction fees”. Such competition did not materialize. *See* Determination and Findings, District of Columbia Taxicab Commission, Modern Taximeter System and Proposed Rulemakings (May 8, 2013) at 12-13. Though practices vary, PSP contracts have terms as long as five years, which bind operators to MTS fees ranging from \$35 per month or \$200-\$800 as a one-time fee, plus transaction fees as high as 4.5% per transaction, in addition to other charges.

The long terms and high fees charged by PSPs limit on owner and operator revenue in ways that are not justified by the services that MTSs provide. An MTS unit is essentially a hardware-based data terminal that calculates the amount to be charged, processes a credit card, provides data to the Department, and prints a receipt. While this equipment may fulfill the basic needs of fixed-location retailers, in the current for-hire industry, it has been overtaken by inexpensive solutions running on smartphones. Through an attached card reader, a smartphone app can perform MTS functions at a fraction of the cost per swipe, while creating open-ended space for innovation. Lower cost and technological advancement are critical to the survival of taxicabs in today’s highly-competitive market, which now includes private vehicles that were not a factor when the original modernization regulations were promulgated.

Second, the Department’s compliance experience with the PSPs has not been a good one. Despite ongoing account reviews begun last year to ensure better oversight of these businesses, most PSPs fall short of meeting their major regulatory obligations. One example is the requirement for integration of each MTS with the DC TaxiApp, which was adopted as proposed rulemaking on December 10, 2014, and became final upon publication in the *D.C. Register* on June 5, 2015. *See* 31 DCMR § 408.16. Integration with other apps is both allowed and encouraged by the Department, as it generates more business for drivers and provides better service to customers who might otherwise have to wait for a street hail. Rides booked by e hail are particularly important in the current market as their fares are set dynamically by the digital dispatch service, rather than using the static street hail rates set by the Department. *See* 31 DCMR § 801. Even after the Department extended the deadline for integration numerous times, however, only two PSPs had fully integrated their MTSs with the DC TaxiApp as of the deadline to renew their licenses for the period ending August 31, 2017.

Another example is the requirement that PSPs provide drivers with the ability to have an electronic manifest capability, so those who wish to do so, can enter ride information into the MTS driver console, rather than continuing to use pencil and paper. An electronic manifest provides more accurate recordkeeping for the Department’s compliance and enforcement purposes, and allows drivers to spend less time keeping notes and more time earning revenue. Although the information captured by the manifest overlaps with the data PSPs are already required to the Department in their trip data, most of the PSPs still fail to offer this service to drivers. Further, PSP compliance with the quick payment rule, which requires that drivers be paid their share of revenue from rides within 24 hours or one business day. *See* 31 DCMR §

408.13. Compliance with this rule varies widely. But the failure to pay drivers on time, when it occurs, is not merely unlawful, it is unconscionable given the income bracket of most drivers. As a result of issues like these, among others, four of the six current PSPs that applied for the renewal of their operating authorities were denied renewal on August 31, 2016.

The current dome light has raised some concerns similar to those raised by the MTS because it is a patented light available only through licensed installation shops that sell lights manufactured by just two businesses. A light that is required by the Act to do nothing more than identify the vehicle and inform passengers of its availability should not cost owners hundreds of dollars. The Department believes it should be able exercise its administrative authority to approve any cruising light that meets the legislative requirements.

For the foregoing reasons, among others, the industry must move on from the original modernization regulations. As noted earlier, by amending the Establishment Act to add the Modernization of Taxicabs section, Council merely established a floor for taxicabs, not a ceiling. It was the Department itself that created the PSP/MTS program and patented the current dome light. The Department has the authority to interpret the legislative requirements as requiring more innovative, lower-cost solutions tailored to fit the needs of the current industry. *See, e.g., Carpenter v. D.C. Rental Hous. Comm'n*, 119 A.3d 683 (D.C. 2014); *Kelly v. D.C. Dep't of Empl. Serv.*, 76 A.3d 94 (D.C. 2013). The Act recognizes the statutory purpose of promoting and maintaining a healthy and viable taxicab industry, which is the primary purpose of this rulemaking. *See* D.C. OFFICIAL CODE § 50-301.02 (Purposes). The Department will achieve this purpose through this rulemaking, because it will enhance driver revenue, ensure the continued availability of wheelchair service by for-hire vehicles, promote access to taxicabs in underserved areas, and reduce regulatory barriers to vehicle ownership, among many other sensible and necessary measures critical to the survival of the taxicab industry at this time. *See id.* *See also* D.C. OFFICIAL CODE §§ 50-301.02, 50-301.13 (Regulation of public vehicles-for-hire) ((a) The ... DFHV may issue any reasonable rule relating to the supervision of public vehicles-for-hire it considers necessary for the protection of the public). Council also recently amended the Establishment Act again in D.C. Official Code § 50-301.26 and other sections to transform the former Taxicab Commission to the Department of For-Hire Vehicles; in doing so, Council could have, but did not, curtail the Department's broad authority to make the changes reflected in this rulemaking. *See* Transportation Reorganization Amendment Act of 2015, D.C. Law 21-0124 (effective. June 22, 2016).

Accordingly, the Department has determined that the MTSs will be replaced with digital taxicab solutions, or "DTSs", by the end of the current MTS licensing period. A DTS will be an open-architecture system combining a state-of-the-art digital taximeter with the DC TaxiApp and as many other ehail apps as the DTS provider chooses to integrate. In a major departure from the PSP/MTS model, the Department will shift the responsibility for providing systems to taxicab companies, taxicab associations, and, once it is fully operational, the Co-op, as these businesses are well-positioned to create innovative solutions while also lowering costs.

The heart of each DTS will be a software-based digital meter, expected to be provided by the Department to the industry free of charge. To spur providers to keep improving, the regulations

allow providers to incorporate a different digital meter as long as it meets or exceeds the performance and features of the Department's meter. Other than that, DTSs will have few specific hardware requirements beyond those in the Establishment Act for a driver console, passenger console, and credit card processing device, to give DTS providers the choice of how best to improve DTSs, with minimal regulation. Providers may choose to include in their DTSs some of the equipment currently installed in vehicles – other than the legacy taximeter – which creates an opportunity for existing businesses to participate in the new program. The new regulations are expected to quickly address many of the shortcomings of the PSP/MTS model, including its greatest – high operating costs. Costs are expected to decrease sharply for the foregoing reasons and, more directly, because DTSs will use credit card devices mounted on smartphones; fees for these services are typically half or less what PSPs on average now charge for the use of MTSs.

The digital meter will also allow for amazing innovations to the District's taxicab industry, the most important of which is dynamic street hail pricing – a first-ever for taxicabs. For the first time, taxicabs will be able to adjust their street hail fares in response to market demand, including for special events, similar to the fare adjustments which – until now – have been available only to apps. Dynamic pricing will be controlled by providers, not by individual owners or operators, and it will occur solely through discounts – up to 100% – on the existing street hail rates and charges. This major innovation will give the District of Columbia's taxicabs a unique boost to level the competitive playing field across the for-hire ecosystem and help keep them a viable industry for years to come.

DTSs will open the door to other new features as well. Providers may choose to offer gift cards and loyalty programs for frequent rider. Passengers will be able to choose to share their locations with friends and family during rides. Customer feedback can be provided instantaneously and continuously to better address issues with vehicle cleanliness, maintenance, and driver behavior. And the new systems will allow for improved data integration with the vehicle to embrace the many improvements in safety expected with the proliferation of autonomous vehicles.

Under the new rules, a basic “cruising light” will replace the patented “legacy dome light”. Unlike the current light, the Department will have flexibility to administratively approve and begin a transition to the use of any light that meets the basic requirements for identifying the vehicle and informing street hail passengers of its availability for hire. DTS providers will be responsible for ensuring that DTS units interact correctly with the light, regardless of whether it is a legacy dome light or the cruising light. Eventually, the legacy dome light will be discontinued for installation on vehicles placed in service together with a new vehicle license, but the legacy lights may continue to be used with DTSs and owners who replace vehicles already in service may pay to transfer them to their replacement vehicles. The new lights – operating in tandem with the DTSs – are expected to decrease refusal to haul issues, as the data provided by the DTSs will allow the Department to verify with greater accuracy whether an operator was on duty at the time and in the location when a passenger informs the Department that a street hail was ignored. Finally, the Department is amending the uniform color scheme rules to allow for enhancements that reflect a vehicle's participation in programs, including those which serve disabled passengers and underserved areas, or which promote fuel efficiency, such as 100% electric vehicles.

The Department finds that the continued approval of PSPs and MTSs is not in the interest of the District, its residents, its visitors, or taxicab owners or operators. PSP licensing will terminate on October 31, 2017. PSPs which were granted a license expiring August 31, 2017, shall have that license extended until October 31, 2017. This rulemaking does not create an independent basis for any person to cancel an existing contract with a PSP; it simply begins a transition period from MTSs to DTSs, ending with the optional deployment of DTSs beginning September 1, 2017, and the mandatory deployment of DTSs beginning November 1, 2017. The Department will post one or more administrative issuances as may be needed to guide affected stakeholders during the transition period.

The Department encourages all stakeholders to participate in the public debate, by submitting comments during the comment period for the proposed rulemaking once this notice is published in the *D.C. Register*, by visiting the Department's website at <http://dfhv.dc.gov/>, and by attending and testifying at the public hearing to be scheduled once the comment period has been determined.

A notice of emergency and proposed rulemaking was adopted by the Department on September 13, 2016. The first emergency rulemaking took effect immediately upon adoption and remained in effect for 120 days expiring on January 11, 2017. A second emergency and proposed rulemaking was adopted on January 11, 2017. It took effect immediately upon adoption and remained in effect for 120 days expiring on May 11, 2017. A third emergency rulemaking was adopted by the Department on May 11, 2017, and took effect immediately upon adoption. It was superseded by a fourth emergency rulemaking, which was adopted by the Department on June 28, 2017, with changes from the third notice as follows: (1) § 503.1 was updated to maintain consistency with owner decisions to repaint; (2) §§ 510 and 602 were clarified to limit DTS providers to taxicab companies and the D.C. Taxicab Industry Co-op to ensure centralized management and control, and the adequacy of capital resources, needed to create, maintain, and operate a DTS; (3) § 602.4 was updated to allow the Department to make an arrangement with a payment card provider to process payment cards for the entire industry at less than 2.75% per swipe; (4) § 602.5 was clarified as to the substance of an applicable administrative issuance; (5) § 602.14 (b)(2) was clarified to ensure that passenger surcharge payments reflect actual trips taken regardless of the amount collected by the DTS provider; (6) § 823 was updated to require each vehicle equipped with a DTS unit be operated only with the use of the DTS unit's electronic manifest; and (7) § 1806.9 was updated to clarify that Transport DC providers must have either an MTS or a DTS unit that is capable of transmitting trip information to the Department regarding eligible Transport DC trips. Sections §§ 602.5 and 602.13 were also amended based on the Department's current experience in reviewing the initial DTS provider applications, which took significantly more time and resources than originally anticipated, including a live demonstration program, demonstrating the need for applications deadlines to ensure each DTS is approved sufficiently in advance of the next uniform approval period to ensure that the DTS open season includes only those providers whose products are ready for informed market comparisons by owners and operators and have been scaled for availability and prompt installation. The amendments clarified that an applicable administrative issuance may establish deadlines by which DTS applications must be filed for the next uniform approval period, after which the approval, if any, may only be for the uniform approval period beginning one (1) year thereafter.

The fourth emergency rulemaking was superseded by a fifth emergency and proposed rulemaking, which was adopted on August 11, 2017 and which took effect immediately upon adoption. The fifth emergency and proposed rulemaking allowed a DTS provider to use any payment card processor provided it charges no more than a 2.75 percent processing fee. This rulemaking also corrected a minor numbering error that had two sections given the same number (602.15), and changed the DTS surcharge payment frequency requirement from weekly to monthly.

The fifth rulemaking is hereby superseded by a sixth emergency and proposed rulemaking, which was adopted on August 28, 2017, and which took effect immediately upon adoption, and shall expire December 26, 2017 unless superseded by another rulemaking. This rulemaking supersedes all previous emergency rulemakings. The Department finds that this rulemaking must be enacted on an emergency basis rulemaking because there is an immediate need to preserve and promote the safety and welfare of District residents by extending the DTS implementation date from August 31, 2017, to October 31, 2017 to provide allow taxicab companies, associations, independent owners, and rental drivers additional time to choose from among the solutions offered by the approved DTS providers.

The Director hereby gives notice of the intent to take final rulemaking action to adopt these proposed rules in not less than forty-five (45) days after the publication of this notice in the D.C. Register. A public hearing will be held on the proposed rulemaking in not fewer than 20 days from the date of publication. Instructions on submitting comments on this rulemaking may be found at the end of this Notice.

Chapter 4, TAXICAB PAYMENT SERVICE PROVIDERS, of Title 31 TAXICABS AND PUBLIC VEHICLES FOR HIRE, is amended as follows:

Section 401, GENERAL REQUIREMENTS, is amended as follows:

A new subsection 401.7 is added as follows:

401.7 Notwithstanding any other provision of this title, no PSP shall be approved by the Department to operate, or to market MTS units, after October 31, 2017.

Chapter 5, TAXICAB COMPANIES, ASSOCIATIONS, FLEETS AND INDEPENDENT TAXICABS, of Title 31, TAXICABS AND PUBLIC VEHICLES FOR HIRE, of the DCMR is amended as follows:

Section 503, TAXICAB COLORINGS AND MARKINGS, is amended as follows:

Subsection 503.1 is amended to read as follows:

503.1 Uniform color scheme. Each vehicle used as a taxicab shall be in compliance with the uniform color scheme in § 503.3 if:

- (a) It is entering service using a new taxicab vehicle license (and corresponding new “H tag” from DMV);
- (b) It is entering service using an existing vehicle license, as required by the vehicle retirement rules of Chapter 6 or based on the owner’s decision to replace a vehicle earlier than required by such rules; or
- (c) The owner chooses to repaint in whole or in part for any reason, including changes in association or affiliation.

Subsection 503.3 is amended as follows:

A new subparagraph (h) is added to read as follows:

- (h) The PVIN shall appear in one or more locations on the vehicle if the vehicle is equipped with a cruising light rather than a legacy dome light, as set forth in an administrative issuance.

Subsection 503.4 is amended to read as follows:

503.4 The Department may allow or require enhancements to or modifications of the uniform color scheme for a vehicle that participates in a pilot, grant, donation agreement, or other program, or that is equipped with a digital taxicab solution (“DTS”).

Section 510, TAXICAB COMPANIES AND ASSOCIATIONS – OPERATING REQUIREMENTS, is amended as follows:

Sections 510.5 and 510.6 are amended to read as follows:

510.5 Beginning September 13, 2016, each taxicab company may operate a digital taxicab solution (“DTS”), and may equip its owned and/or associated vehicles, or any other licensed taxicab, with a DTS unit. Beginning November 1, 2017, each taxicab company shall operate a DTS and shall equip each of its owned and associated vehicles with a DTS unit. Each DTS shall be approved and operated pursuant to Chapter 6, other applicable provisions of this title, other applicable laws, and any applicable administrative issuance. Each DTS unit shall be installed and operated pursuant to a written agreement. Until a taxicab company operates an approved DTS, it shall continue to provide one or more safety devices for all of its owned and associated vehicles that conforms to the equipment requirements of § 603.8 (n) (3), as specified in an administrative issuance, including a device which provides for operator safety.

510.6 Each taxicab company shall maintain a website containing only current and accurate information about the company, including, if it operates a DTS:

- (a) If it uses dynamic street hail pricing: a prominent, clear, and complete disclosure of its current discount, if any, on the street hail rates and charges in Chapter 8, which shall be the same as the disclosure that appears on the passenger console of each DTS unit; and
- (b) A general description of the DTS and its components, the most recent date on which the DTS was approved by the Department pursuant to Chapter 6, and a disclosure of the DTS contract terms including its pricing structure.

Chapter 6, TAXICAB PARTS AND EQUIPMENT, of Title 31 DCMR, TAXICABS AND PUBLIC VEHICLES FOR HIRE, is amended as follows:

Section 602, TAXIMETERS, is amended to read as follows:

602 TAXIMETERS AND DIGITAL TAXICAB SOLUTIONS

602.1 Beginning September 13, 2016:

- (a) No legacy (non-digital) taximeters shall be approved by the Department; and
- (b) No person shall participate in dispatching, operating a taxicab, or otherwise providing taxicab service in the District if the vehicle is not equipped with a DTS unit provided by an approved DTS.

602.2 Beginning September 1, 2017:

- (a) Taxicabs may utilize either the legacy PSP/MTS technology or DTS in their vehicles to process in-vehicle payments.

602.3 Beginning November 1, 2017:

- (a) The Department shall approve only DTSs, each of which shall incorporate a digital taximeter;
- (b) The approval of each legacy taximeter's operating authority shall terminate; and
- (c) No person shall participate in dispatching or otherwise providing taxicab service if the service is provided without an approved DTS.

602.4 Each DTS shall be provided and maintained by a taxicab company, or by the D.C. Taxicab Industry Co-op ("Co-op") (collectively for purposes of this section, "provider"). Each DTS shall comply with the technology and service requirements of this section. The Co-op shall seek approval of its DTS not later than six months following its registration as a DDS.

602.5 Each DTS shall include any digital taximeter and use any payment card processor, as determined by the DTS provider, provided however, that:

- (a) If the Department makes a digital taximeter available to the industry free of charge, then each DTS provider shall incorporate such digital taximeter into its DTS within ninety (90) days of its availability, or such longer period as set by administrative issuance, provided however, that each DTS provider may in lieu thereof incorporate any other digital taximeter that meets or exceeds the performance and features of the Department's digital meter; and
- (b) A payment card processor must process DTS payments at a total cost at or below two and seventy five one hundredths percent (2.75%) per swipe.
- (c) The legality or wisdom of any administrative issuances promulgated pursuant to (a) of this subsection may be challenged in an administrative proceeding.

602.6 The Department may issue an administrative issuance concerning DTSs and DTS units to:

- (a) Establish requirements for when approval or renewal of approval is required, including establishing uniform approval periods of not less than twelve (12) months; establishing an annual DTS open season during which DTS providers approved for the next uniform approval period may compete for customers during such period; establishing an annual deadline by which DTSs must apply for approval or renewal in order to be approved for the next uniform approval period and to participate in the next DTS open season, or otherwise be considered only for approval during the uniform approval period starting one (1) year after the next uniform approval period; and establishing standards from when re-approval is required due to a material modification of a DTS during an approval period;
- (b) Interpret and provide guidance about DTS technology and service requirements;
- (c) Establish reasonable requirements related to surcharge bonds;
- (d) Establish reasonable requirements for the use, operation, configuration, placement, and installation of DTS units and their components, such as requirements for accessibility and use by disabled passengers including visually-impaired and blind customers;

- (e) Establish reasonable requirements concerning the use of dynamic street hail pricing, including the placement of signs in and/or on vehicles to inform passengers about such pricing;
- (f) Establish reasonable requirements concerning the requirements for separate mechanisms for the operator and the passenger to discretely summon assistance;
- (g) Interpret and provide guidance on the requirements for a digital taximeter that a DTS provider seeks to incorporate in its DTS in lieu of a digital taximeter regarding its ability to meet or exceed the performance and features of the Department's digital meter made available to the industry for free, if any;
- (h) Interpret and provide guidance on the requirements for a payment card processor that a DTS provider seeks to use to process payments; or
- (i) Establish other reasonable requirements for DTSs and DTS units related to safety, passenger privacy, consumer protection, compliance with any other applicable law, and other reasonable purposes within the jurisdiction of the Department.

602.7 The approval of a DTS may be suspended or revoked, and a renewed approval may be denied, in addition to other civil penalties under this title, if the DTS provider fails to comply with an applicable administrative issuance, provided that the DTS provider shall have the opportunity to challenge the legality or wisdom of any or all provisions of the relevant administrative issuance or issuances in an administrative hearing.

602.8 Each application for the approval of a DTS shall be executed by an individual with authority to file the application, and shall contain the following information and documentation:

- (a) Contact information for the applicant, including name, telephone number, email, and website URL;
- (b) Information and documentation about each component of the DTS unit, including its digital meter, driver console, passenger console, and credit card processing device, and how it interacts with the vehicle's dome light or innovation cruising light, including a narrative, photographs, and screenshots for each component;
- (c) Information and documentation showing the DTS complies with all service and technology requirements of this section, other requirements of this title, the Establishment Act, and other applicable laws;

- (d) A certification that the applicant owns the rights to, or holds a license to use, all the intellectual property that comprises the DTS other than intellectual property required by this section to be used in connection with a digital meter, or an arrangement with a payment card processor, made available by the Department;
- (e) Information showing the applicant is in good standing with the Department and is in compliance with all applicable laws pertaining to its business, including without limitation the Clean Hands Act;
- (f) Information demonstrating that the applicant will collect from the passenger and pay to the District the taxicab passenger surcharge of twenty-five cents (\$0.25);
- (g) A sample of each agreement with owners and operators used by the applicant;
- (h) An explanation of the provider's pricing structure, and whether the provider expects to offer dynamic street hail pricing; and
- (i) A certification that the DTS is fully integrated with the DC TaxiApp, as required by this section, Chapter 16, and any applicable administrative issuance, and the names of any other apps with which the DTS is also integrated.

602.9 Each application shall be accompanied by a filing fee of two thousand five hundred dollars (\$2,500), regardless of whether: it is a new or renewal application; or it seeks re-approval of a DTS due to its material modification by its provider during an approval period.

602.10 Each application for the approval of a DTS shall be accompanied by a bond, naming the District as obligee, to secure the payment of the passenger surcharges owed to the District under this title and the Establishment Act during the current approval period. Such bond(s) shall:

- (a) Be in effect throughout the current approval period to which the approval applies and for one (1) year thereafter; and
- (b) Be in the amount of one hundred fifty thousand dollars (\$150,000).

602.11 An application may be denied if it contains or was submitted with materially false information provided orally or in writing for the purpose of inducing approval.

602.12 An applicant seeking to renew the approval of a DTS shall meet all requirements for a new approval, or such portion thereof, as the Department may require by administrative issuance.

- 602.13 The Department shall issue all decisions to grant or deny the approval of a DTS within the period established in an administrative issuance.
- 602.14 Each approval of a DTS shall be for the duration of the uniform approval period set forth in an administrative issuance, or the remainder of the current period, whichever is less.
- 602.15 Each DTS provider shall execute contracts with operators that are no longer than the license period for which they are granted operating authority, and DTSs must allow operators to switch to another DTS provider during an annual DTS open season as that term is defined in an administrative issuance, without penalty.
- 602.16 Technology requirements for DTS units. Each DTS unit shall:
- (a) Operate in a manner which ensures the vehicle owner and operator, and the DTS provider, are able to comply with all requirements of this title and other applicable laws, and all applicable administrative issuances;
 - (b) Use open architecture, open application program interfaces, and a modular design, to ensure proper interaction among:
 - (1) A driver console incorporating a digital taximeter that—
 - (A) Is fully integrated with the DC TaxiApp and, at the option of the provider, the app of any other DDS registered and operated as required by this title and other applicable laws;
 - (B) Processes shared and group rides, calculates fares (including dynamic street hail prices, if offered by the provider), and provides receipts as required by Chapter 8;
 - (C) Provides the Department with real-time trip and location data when the operator is on duty, and such other information as reasonably required by an administrative issuance;
 - (D) Is linked electronically, or via a DFHV network, API, integration hub, website, mobile app, URL, or hardware, to one or more registered digital dispatch services, including at a minimum, full integration with the DC TaxiApp, for the purpose of receiving ehails and allowing ehail passengers to choose in-vehicle or digital payments; and
 - (E) Provides the operator and District enforcement officials with the ability to view the vehicle's electronic manifest as

required by § 823 for the prior forty eight (48) hours, and maintains all manifest records for at least two (2) years.

- (2) A passenger console;
 - (3) A credit card processing device;
 - (4) Any other device the provider wishes to include that does not impair the required function and performance of the DTS; and
 - (5) Complies with all other applicable requirements of this title and other applicable laws, and any applicable administrative issuance;
- (c) Interact with the vehicle's legacy dome light or cruising light to properly control its functions in the manner required by this chapter.

602.17 Service requirements for DTSs. Each DTS provider shall:

- (a) Ensure that each of its DTS units is in compliance with the technology and other requirements of this title and other applicable laws, including proper operation and connectivity with a cruising light or legacy dome light;
- (b) Comply with the following requirements for the taxicab passenger surcharge. It shall—
 - (1) Collect the surcharge as an authorized additional charge under Chapter 8;
 - (2) Remit to the District, at the end of each month, a payment to the D.C. Treasurer reflecting all surcharges owed to the District for such period based on the number of trips during such period, regardless of whether or not the surcharge was actually collected from the passenger;
 - (3) Transmit to the Department a report certifying its payment to the District, and containing a basis for the amount of the payment and such other information reasonably related to the payment as may be required by an administrative issuance; and
 - (4) Cooperate with the Department to resolve any issue related to compliance with this subsection, including a discrepancy in the amount of a payment. If the issue remains unresolved to the satisfaction of the Department within thirty (30) days following notice of the issue to the payer, the Department shall have discretion to make a claim against the payer's surcharge bond, as necessary and appropriate to satisfy the amount of the discrepancy.

A surcharge bond shall be returned to the payee within thirty (30) days following the expiration of the bond, or, upon written request of the payer, at an earlier date if the payer establishes to the satisfaction of the Department that the payer's obligations under this section have been fully discharged;

- (c) Pay each owner or operator with which it is associated the portion of its revenue to which such owner or operator is entitled within twenty four (24) hours or one (1) business day of when such revenue is received, provided however, that such periods may be extended to not more than one (1) calendar week or five (5) business days if such terms are clearly and transparently disclosed in the contract; and
- (d) Pay all costs and fees related to the DTS, including without limitation, the costs for development, improvement, installation, maintenance, service, support, and legal compliance, provided however, that such costs may be allocated pursuant to a written agreement that clearly and transparently discloses each and every cost, and does not exceed the length of the approval period. No person other than the provider shall pay a cost or fee related to a DTS which has not been fully disclosed in the manner required by this subsection.

602.18 The approval of a DTS may be suspended or revoked if its provider integrates with or uses the app of a DDS not registered or operated as required by this title and other applicable laws.

602.19 A taxicab equipped to provide taxicab service using a DTS unit shall use the DTS unit for each and every trip.

602.20 No taxicab shall be equipped with or use more than one taximeter (analog or digital), more than one DTS unit, or both an MTS unit and a DTS unit.

602.21 An operator shall not pick up or transport a passenger unless the taxicab and its DTS unit are functioning properly and the DTS unit is able to provide receipts.

602.22 Each approved DTS and each approved taximeter shall be listed on the Department's website.

Section 603, MODERN TAXIMETER SYSTEMS, is amended as follows:

A new subsection 603.11 is added as follows:

603.11 Notwithstanding any other provision of this title, no MTS shall be operated after October 31, 2017.

Section 605, DOME LIGHTS AND TAXI NUMBERING SYSTEM, is amended as follows:

- 605.1 Each taxicab in service on September 13, 2016, and each vehicle introduced as a replacement vehicle under § 609, may continue to be equipped with an existing legacy dome light or may be equipped with a cruising light, at the option of the owner, subject to the requirements of this section. Each legacy dome light shall continue to be subject to the legacy dome light regulations to the extent such regulations do not conflict with this section, provided however, that each legacy dome light shall interact with a DTS and otherwise operate as required by this chapter and any applicable administrative issuance if a DTS is installed in the vehicle.
- 605.2 Beginning November 13, 2016, or such later date established by an administrative issuance, each vehicle placed into service other than as a replacement vehicle under § 609, shall be equipped only with a cruising light approved by the Department pursuant to this section, which interacts with the MTS or DTS and otherwise operates as required by this title and any applicable administrative issuance.
- 605.3 Each approved DTS provider shall be responsible for ensuring the interconnectivity and proper functioning of a DTS unit and the legacy dome light or cruising light.
- 605.4 The Department may approve as a cruising light any light which—
- (a) Shall be constructed in a manner that meets or exceeds industry best practices;
 - (b) Shall display the vehicle's PVIN;
 - (c) Shall indicate whether the vehicle is available for booking by street hail;
 - (d) Shall interact with the vehicle's legacy taximeter or DTS as required by this chapter;
 - (e) May incorporate features to indicate that the taxicab is an autonomous or semi-autonomous vehicle; and
 - (f) May incorporate features to indicate that the operator is engaged in delivering goods or performing services.
- 605.5 The Department may issue an administrative issuance which:
- (a) Approves one or more products meeting the requirements for a cruising light under this section;
 - (b) Provides guidance to DTS providers for installing cruising lights and

ensuring their proper operation with DTS units;

- (c) Provides guidance to affected stakeholders about the transition from the legacy dome light to the cruising light;
- (d) Provides guidance to owners about the transfer of legacy dome lights from vehicles already in service to replacement vehicles, and about the decommissioning of legacy dome lights, where required by this section; and
- (e) Establishes additional criteria for the appearance, functionality, connectivity, and installation of the cruising light, for safety, consumer protection, and other reasonable purposes within the jurisdiction of the Department.

605.6 A legacy dome light shall not be used on a vehicle placed into service unless the vehicle is replacing one already in service. An owner may elect to transfer a legacy dome light to a replacement vehicle at the owner's expense.

605.7 At the time a vehicle equipped with a legacy dome light is retired from service, if the light is not transferred to a replacement vehicle, it shall be decommissioned by the deadline and in the manner required by an administrative issuance; an owner that fails to comply with such administrative issuance shall be subject to the suspension of the owner's vehicle license and/or other civil penalties for the violation of such administrative issuance.

605.8 No taxicab shall be operated without a properly functioning legacy dome light or cruising light. The operation of a taxicab without a properly functioning legacy dome light or cruising light, as required or permitted by this title, shall give rise to a rebuttable presumption that the operator knew the condition of the light and operated the taxicab with such knowledge.

Chapter 8, OPERATING RULES FOR PUBLIC VEHICLES-FOR-HIRE, of Title 31 DCMR, TAXICABS AND PUBLIC VEHICLES FOR HIRE, is amended as follows:

Section 801, PASSENGER RATES AND CHARGES, is amended as follows:

Subsection 801.1 is amended to read as follows:

801.1 No person regulated by this title shall charge a rate, charge, or fare for taxicab service in the District in excess of the amounts established by this section. Notwithstanding any other provision of this title, a DTS provider may elect to offer dynamic street hail pricing based on a discount on the total amount of all rates and charges established by this section for rides booked by street hail or by telephone dispatch (if the provider is a taxicab company registered to provide telephone dispatch under Chapter 16), consistent with an applicable

administrative issuance. A dynamic street hail discount may be in any amount up to one hundred percent (100%).

Subsection 801.12 is amended to read as follows:

801.12 Notwithstanding any other provision of this chapter, a person subject to licensing, registration, or regulation by the Department pursuant to this title or the Establishment Act, that participates in a pilot, grant, donation agreement, or other program, with the approval of the Department, or that engages in approved live field testing of an app pursuant to Chapter 16, shall use the rates and charges, if any, established or approved by the Department in connection with such pilot, grant, donation agreement, or other program, if any, in lieu of the rates and charges otherwise applicable pursuant to this subsection.

Section 802, TAXICAB OPERATOR SURCHARGE ACCOUNTS, is amended to read as follows:

802 DTS RECEIPTS

802.1 Each taxicab providing service using a DTS unit shall comply with this section.

802.2 At the end of the ride, the passenger shall be given a receipt as follows:

- (a) If the ride was booked by ehail, the receipt shall be sent through the app used to book the ride; and
- (b) If the ride was booked by street hail or telephone dispatch, the passenger shall be provided with a printed receipt.

802.3 Each receipt shall contain the following information:

- (a) The taxicab owner's name and telephone number;
- (b) The taxicab's PVIN number;
- (c) The operator's DFHV operator license (Face ID) number;
- (d) The trip number;
- (e) The date;
- (f) The starting and ending times;
- (g) The distance traveled;
- (h) The amount paid by the passenger, showing the total fare and the gratuity, if any, and an indication of whether dynamic street hail pricing was used

by the DTS provider, and, if so, the applicable discount;

- (i) A depiction of the navigational path of the vehicle during the ride;
- (j) Contact information for the Department; and
- (k) Such other information about the ride that the Department may reasonably require through an administrative issuance.

802.4 The Department may issue an administrative issuance to allow or require operators to provide a DFHV ride code or other information to the passenger in lieu of or in combination with any of the requirements for receipts under this section, and to establish additional criteria for DTS receipts for safety, consumer protection, and other reasonable purposes within the jurisdiction of the Department.

Section 803, RECEIPTS FOR TAXICAB SERVICE, is amended as follows:

The title of Section 803, RECEIPTS FOR TAXICAB SERVICE, is amended to read as follows:

803 MTS RECEIPTS

Section 803, MTS RECEIPTS, is amended to read as follows:

803.1 Each taxicab providing service using an MTS unit shall comply with this section.

803.2 At the end of each taxicab trip, the operator shall provide the passenger with a printed receipt (except as authorized by § 803.4). The printed receipt shall contain the following information:

- (a) The taxicab owner's name and telephone number;
- (b) The taxicab's PVIN number;
- (c) The operator's DFHV operator's license (face ID) number;
- (d) The trip number;
- (e) The date;
- (f) The starting and ending times;
- (g) The distance traveled;
- (h) The form of payment, including:

- (1) If the payment was an in-vehicle payment, whether it was made in cash, by payment card (including the type of card, the last four digits of the card number, and the transaction authorization code), by voucher, or by account; and
 - (2) If the payment was a digital payment, the name, customer service telephone number or URL for the DDS's customer service website;
- (i) If the passenger made an in-vehicle payment:
- (1) The total charges established by § 801.7(c), itemized to show the time and distance charge pursuant to § 801.7(c)(1), and any authorized additional charges pursuant to § 801.7(c)(2), the passenger surcharge, and any gratuity; and
 - (2) The last four digits of any payment card processed and the transaction authorization code.
- (j) Where pursuant to this title a DDS determined the amount of the fare, if any:
- “[NAME OF DDS] DETERMINED THE AMOUNT OF YOUR TAXICAB FARE. THE AMOUNT YOU HAVE BEEN CHARGED MAY BE HIGHER OR LOWER THAN THE AMOUNT DISPLAYED ON THE TAXIMETER, WHICH DID NOT APPLY TO YOUR TRIP.”
- (k) The following statement:
- “DFHV COMPLAINTS LINE AND WEBSITE ADDRESS: 855-484-4966, TTY 711, www.dfhv.dc.gov”.

803.3 When payment is made by a cash or cashless payment, a printed receipt shall be provided using the vehicle's MTS printer component. If the printer component malfunctions while printing a receipt, the operator shall provide the passenger with a handwritten receipt and the vehicle shall then be out of service until the printer component is operational.

803.4 When payment is made by digital payment, the passenger shall receive a printed receipt or an electronic receipt containing the information required by § 803.2, which shall be sent to the passenger via email address or SMS text message not later than when the passenger exits the vehicle.

803.5 In the case of messenger or parcel delivery service, the operator shall provide the customer with a written invoice describing the article(s) transported.

Section 816, STANDARDS OF CONDUCT; UNLAWFUL ACTIVITIES PROHIBITED, is amended as follows:

New subsections 816.16 and 816.17 are added as follows:

- 816.16 No person subject to regulation by the Department shall tamper with, damage, destroy, deface, vandalize, remove, modify, or in any way attempt to defeat or bypass equipment authorized or required by this title.
- 817.17 No person subject to regulation by the Department shall aid, abet, or be an accessory after the fact to a violation of § 816.16.

Section 818, DISCRIMINATION PROHIBITED, is amended as follows:

Subsection 818.2 is amended to read as follows:

- 818.2 Discriminatory conduct prohibited by this section includes, but is not limited to, the following:
- (a) Not picking up a passenger on the basis of any protected characteristic or trait, including not picking up a passenger with a service animal;
 - (b) Requesting that a passenger get out of a taxicab on the basis of a protected characteristic or trait;
 - (c) Using derogatory or harassing language on the basis of a protected characteristic or trait;
 - (d) Refusing a telephone or digital dispatch to a specific geographic area of the District; and
 - (e) Using dynamic street hail pricing in any manner that constitutes prohibited discrimination under this section or other applicable law.

Section 823, MANIFEST RECORD, is amended as follows:

The title of Section 823, MANIFEST RECORD, is amended to read as follows:

823 MANIFESTS

Section 823, MANIFESTS, is amended to read as follows:

- 823.1 Each operator of a taxicab equipped with an MTS unit, and each operator of a black car, shall comply with the requirements of this Section 823 in effect on January 9, 2017 (allowing the use of either a paper or electronic manifest pursuant to the requirements of that section).

- 823.2 The operator of a taxicab equipped with a DTS unit shall use only the electronic manifest incorporated in the DTS unit to permanently record all for-hire activity by the vehicle during the most recent forty eight (48) hours. Paper manifests are not permitted.
- 823.3 Each DTS electronic manifest shall contain the information required by § 802.3 for DTS receipts, the information required by the DC TaxiApp and by any other app with which the DTS is integrated, and the following:
- (a) The date, time, and vehicle mileage each time the operator logs in or out; and
 - (b) The vehicle's PVIN and "H" tag number.
- 823.4 No person shall alter or attempt to alter an electronic manifest maintained by a DTS unit or the DTS provider.
- 823.5 Each operator and owner of a vehicle equipped with a DTS unit shall make the electronic manifest available for inspection upon demand by a District enforcement official.

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

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

Subsection 1806.9 (b) is amended to read as follows:

- (1) Is in compliance with all applicable provisions of this title, including: vehicle licensing requirements; uniform color scheme requirements; and equipment requirements such as a modern taximeter system (MTS) unit until October 31, 2017, or a digital taxicab solution (DTS) unit, and a legacy dome light or cruising light, as required for all taxicabs by § 602;
- (2) If it is a wheelchair accessible vehicle, is operated only by an operator trained to provide wheelchair service, as required by this chapter;
- (3) If it is a wheelchair accessible vehicle, other than a WMATA van or a wheelchair accessible vehicle that was associated with the company prior to its approval to participate in Transport DC: meets all applicable provisions of this chapter for use in Transport DC; and

- (4) Has an MTS or DTS unit which has been configured to report Transport DC trip data in the format directed by the Department, allowing the Department to identify Transport DC trips and such other information related to Transport DC as may reasonably be required by an administrative issuance.

Chapter 20, FINES AND CIVIL PENALTIES, of Title 31 DCMR, TAXICABS AND PUBLIC VEHICLES FOR HIRE, is amended as follows:

The title of Chapter 20 is amended to read as follows:

Chapter 20 CIVIL FINES

Chapter 20, CIVIL FINES, is amended as follows:

Section 2000 is amended as follows:

Subsection 2000.8 is amended as follows:

A civil fine is added to Schedule 2, Fines for Entities and Owners, Maximum Fines Based on Circumstances as follows:

DTS Providers	\$2,500
Prohibited discrimination in violation of § 818	

Chapter 99, DEFINITIONS, of Title 31 DCMR, TAXICABS AND PUBLIC VEHICLES FOR HIRE, is amended as follows:

Section 9901, DEFINITIONS, is amended as follows:

Subsection 9901.1 is amended to add definitions as follows:

“Autonomous vehicle” – a vehicle in which operation occurs without direct operator input to control the steering, acceleration, and braking, and which is capable of monitoring road conditions and performing navigation for an entire trip without human conduction.

“Credit card processing device” – a component of a DTS unit that allows passengers to make payments using credit cards and other methods of non-cash payment in the manner required by the Act and other applicable laws.

“Digital taxicab solution” or “DTS” – a technology solution for the operation of taxicabs that consists at a minimum of a digital taximeter running on a driver console, as defined in this chapter, a passenger console, and a credit card

processing device, as such terms are defined in this chapter, and any optional components that the DTS provider may choose to include.

“Driver console” – a component of a DTS unit, as defined in this chapter, which: incorporates a digital meter and other DTS functions used by operators during taxicab rides; is safely-secured in the vehicle; and is accessible to District enforcement officials during traffic stops and compliance surveys.

“DTS unit” – an individual unit of a DTS, as defined in this chapter, that is installed in a vehicle.

“Dynamic street hail pricing” – a District-wide variable pricing structure for taxicab rides booked by street hail or telephone dispatch, which is established, maintained, and publicized by a DTS provider, as defined in this chapter.

“Ehail” – digital dispatch, as defined in this chapter. As used in this title, the terms “ehail” and “digital dispatch” are synonymous.

“Legacy dome light” – the patented and licensed dome light required for use on all taxicabs as of September 12, 2016.

“Legacy dome light regulations” – the regulations applicable to the legacy dome light, appearing in § 605.1 and in effect on September 12, 2016.

“Passenger console” – a component of a DTS unit, as defined in this chapter, which provides passengers with: the operator’s license number; the vehicle’s navigational path; applicable rates and charges (including if the provider uses dynamic street hail pricing: a disclosure of its current discount, if any, which shall be the same as the disclosure that appears on the DTS provider’s website); advertising; any audiovisual content required by the Department; a statement about payment and receipt options.

“Semi-autonomous vehicle” – a vehicle which has automation of at least two primary control functions designed to work in unison to relieve the operator of control of these functions, such as adaptive cruise control with lane centering.

Copies of this proposed rulemaking can be obtained at www.dcregs.dc.gov or by contacting the Department of For-Hire Vehicles, 2235 Shannon Place, S.E., Suite 3001, Washington, D.C. 20020. All persons wishing to file comments on the proposed rulemaking action should submit written comments via e-mail to dfhv@dc.gov or by mail to the Department of For-Hire Vehicles, 2235 Shannon Place, S.E., Suite 3001, Washington, DC 20020, no later than forty-five (45) days after the publication of this notice in the *D.C. Register*.