

## DISTRICT OF COLUMBIA TAXICAB COMMISSION

### NOTICE OF PROPOSED RULEMAKING

The District of Columbia Taxicab Commission (Commission), pursuant to the authority set forth in sections 8(b)(1) (C), (D), (E), (F), (G), (I), (J), 14, and 20 of the District of Columbia Taxicab Commission Establishment Act of 1985 (“Establishment Act”), effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code §§ 50-307(b)(1) (C), (D), (E), (F), (G), (I), (J) and 50-319 (2009 Repl.), and D.C. Official Code § 50-313 (2009 Repl.; 2012 Supp.); D.C. Official Code § 47-2829 (b), (d), (e), (e-1), and (i) (2012 Supp.); section 12 of the 1919 District of Columbia Taxicab Act, approved July 11, 1919 (41 Stat. 104; D.C. Official Code § 50-371 (2009 Repl.)); and section 6052 of the District of Columbia Taxicab Commission Fund Amendment Act of 2012 (Commission Fund Amendment Act), effective September 20, 2012 (D.C. Law 19-168; D.C. Official Code § 50-320(a))(2012 Supp.) hereby gives notice of proposed rulemaking action to publish a proposed rulemaking to amend Chapter 4 (Hearing Procedures Applicable to Notices of Infractions) of the District of Columbia Municipal Regulations (DCMR).

Proposed rules amending Chapter 6 (Taxicab Parts and Equipment) of DCMR Title 31 were originally approved for publication on January 31, 2013, and published in the *D.C. Register* on February 8, 2013, at 60 DCR 1566. The Office held a public hearing on the proposed rules on February 15, 2013, to receive oral comments on the proposed rules. The Office received valuable comments from the public at the hearing and throughout the comment period, which expired on March 9, 2013. This proposed rulemaking is drawn from the original proposed rulemaking for Chapter 6, which has been divided into proposed rulemaking that would amend Chapter 6 (Taxicab Parts and Equipment) and Chapter 8 (Operation of Taxicabs), and create a new Chapter 4 (Taxicab Payment Service Providers).

Directions for submitting comments may be found at the end of this notice. A public hearing on this second proposed rulemaking will be held following publication. The Commission also hereby gives notice of the intent to take final rulemaking action to adopt these proposed rules in not less than thirty (30) days after the publication of this notice of second proposed rulemaking in the *D.C. Register*.

**Chapter 4 [RESERVED] is now titled TAXICAB PAYMENT SERVICE PROVIDERS.**

#### CHAPTER 4 TAXICAB PAYMENT SERVICE PROVIDERS

##### 400 APPLICATION AND SCOPE

400.1 The purpose of this Chapter is to establish substantive rules for the administration and operation of payment service providers (“PSPs”) who provide the modern taximeter systems (“MTSs”) required by Chapter 6 of this Title, including rules to ensure the safety of passengers and operators, for consumer protection, and to collect a passenger surcharge.

400.2 The provisions of this Chapter shall be interpreted to comply with the language and intent of the District of Columbia Taxicab Office Establishment Act of 1985, D.C. Official Code §§ 50-301 *et seq.*

400.3 In the event of a conflict between a provision of this Chapter and a provision of another Chapter of this Title, the more restrictive provision shall control.

## **401 GENERAL REQUIREMENTS**

401.1 A PSP that wishes to furnish its MTS units to taxicab companies and independent owners in the District of Columbia shall apply for approval of its proposed MTS under this Chapter.

401.2 All costs associated with an MTS or proposed MTS, including development, application to and review by the Office, installation, operation, repair, lease, service and support, maintenance, and upgrade, shall be the responsibility of the PSP, and may be allocated by a written agreement among the PSP and the taxicab companies and independent owners to whom it furnishes its MTS units, following approval of the MTS under this Chapter.

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

401.4 Each PSP shall remain in compliance with all MTS service and support requirements in Chapter 6 and all requirements of this Chapter throughout the period that its MTS has a current and valid approval from the Office.

401.5 Each PSP shall comply with an administrative order or request for information issued by the Office that relates to the Office's administration of any rule in this Chapter, including PSP operations, the review of a proposed MTS or MTS for which renewal of approval is sought, an approved MTS, or an MTS unit.

401.6 Each PSP shall pay each taxicab company or independent owner with which it is associated the portion of such PSP's revenue to which such taxicab company or independent owner is entitled within twenty-four (24) hours or one (1) business day of when such revenue is received by the PSP.

## **402 RELATED SERVICES**

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

402.2 Each PSP may associate with one or more dispatch services to allow such services to provide dispatches to taxicab operators, or to allow such dispatch services to process digital payments, provided such dispatch services are in compliance with all applicable provisions of this Title, and all other applicable laws. Each taxicab company, independent owner, or operator, may associate with one or more dispatch services to obtain dispatches, as provided by § 603.

402.3 Each PSP that associates with a digital dispatch service to allow passengers to make digital payments shall ensure that the following requirements are met:

- (1) MTS meter data shall be used for all digital payments;
- (2) The passenger rates and charges established by § 801 shall be used for all digital payments;
- (3) A charge by a digital dispatch service in addition to the passenger rates and charges established by § 801 shall be paid by a digital payment; and
- (4) A receipt shall be provided as required by § 803 for each taxicab trip.

### **403 PROPOSED MODERN TAXIMETER SYSTEMS – APPLICATIONS**

403.1 No person shall operate an MTS or allow another person to use its MTS units in the District of Columbia unless such person is a PSP that has obtained approval of such MTS under this Chapter. Such approval shall constitute such PSP's operating authority under this Title.

403.2 A PSP shall file an application for review of a proposed MTS under penalty of perjury, accompanied by a fee of one-thousand dollars (\$1,000) and a security bond of fifty-thousand dollars (\$50,000), payable to the D.C. Treasurer and effective while the MTS remains approved and one (1) year thereafter, and including the following information and documentation:

- (a) Its name, business address, and business telephone number, and the name(s) of its owner and operator;
- (b) The name, business address, and business telephone number for other services offered by the person that operates the PSP which are subject to regulation under this Title, such as a taxicab company or a dispatch service, if any;
- (c) Information and documentation demonstrating that the proposed MTS would meet the MTS equipment requirements of § 603.8, including the requirements that a passenger console be incorporated into each MTS and installed as part of each MTS unit not later than December 1, 2013, and

that such passenger console be upgraded by not later than December 1, 2014, to incorporate a feature that will allow the passenger to summon District of Columbia emergency services to the taxicab;

- (d) Information and documentation demonstrating that the proposed MTS would meet the MTS service and support requirements of § 603.9;
- (e) Information and documentation about the forms of cashless payment that the PSP would offer to passengers;
- (f) The address and telephone number for the PSP's bona fide administrative office or for its registered agent authorized to accept service of process;
- (g) The customer service telephone number that the PSP will provide for passengers;
- (h) The technical support telephone number that the PSP will provide for taxicab owners and operators;
- (i) The URL for the PSP's website, if any;
- (j) The trade name for the proposed MTS and any related service it wishes to offer within the District, such as a dispatch service, if any;
- (k) Information and documentation showing that the PSP is in compliance with all applicable federal and District licensing, permitting, registration, anti-discrimination, and taxation requirements for a business operating in the District of Columbia (other than the requirements of this Title).
- (l) Information and documentation showing that the PSP's bona fide administrative office is in compliance with all laws, rules, and regulations concerning the operation of a place of business in the District or that it maintains a registered agent authorized to accept service of process, as may be required by this Title;
- (m) A certification that the PSP is in compliance with the clean hands requirements of D.C. Official Code § 47-2862; and
- (n) An initial inventory of the vehicles and operators associated with the PSP, as required by § 603.9(c);
- (o) A sample agreement used by the PSP to associate with taxicab companies, independent owners, and operators;

- (p) If the PSP, or the taxicab companies, independent owners, or operators with which it associates, would associate with one or more dispatch services, the PSP shall provide information and documentation:
  - (1) Showing such dispatch service is in compliance with all provisions of this Title, and all other applicable laws;
  - (2) Explaining the forms of dispatch and digital payment (for digital dispatch services) that will be made available to MTS users; and
  - (3) Showing that the applicable provisions of this Chapter and § 603 will be met when a passenger makes a digital payment.
- (g) Such other information and documentation related to establishing compliance with this Chapter or § 603 as the Office may require at the time of application or during the review process.

#### **404 REVIEW PROCESS**

- 404.1 The PSP shall bear the burden of establishing to the satisfaction of the Office that its proposed MTS meets all the requirements of this Chapter and §§ 603.8 and 603.9.
- 404.2 An applicant may be scheduled for one or more demonstrations of its proposed MTS equipment, where the Office's technical staff shall examine and test the equipment and ask questions of the PSP's technical staff, who shall attend.
- 404.3 An applicant shall cooperate with the Office. An application may be denied if the applicant does not cooperate at any point in the review process, or if the application contains or was submitted in connection with materially false information provided orally or in writing for the purpose of inducing approval.
- 404.4 The Office may use any or all information or documentation it acquired from the applicant during an MTS pre-approval process, if such process was used by the PSP. Pre-approval of a proposed MTS shall not entitle a PSP to approval under this Chapter.

#### **405 DECISION TO GRANT OR DENY APPROVAL**

- 405.1 The Office shall complete its review and issue its decision to grant or deny approval within fourteen (14) days, provided however, that such period may be extended by the Office for up to ten (10) additional days with notice to the PSP during such time as the Office has five (5) proposed MTSs under review.
- 405.2 If the Office denies approval on any ground, it shall state the reasons for its decision in writing.

405.3 A decision to deny approval may be appealed to the Chief of the Office within fifteen (15) business days, and, otherwise, shall constitute a final decision of the Office. The Chief shall issue a decision within thirty (30) days. A timely appeal of a denial shall extend an existing MTS approval pending the Chief's decision. A decision of the Chief to affirm or reverse a denial shall constitute a final decision of the Office. A decision of the Chief to remand to the Office for further review of the MTS shall extend an existing MTS approval pending the final decision of the Office.

405.4 An approval shall continue in effect for twelve (12) months, during which time no substantial change shall be made to it by the PSP without written approval from the Office. A PSP shall promptly inform the Office of a proposed substantial change that would require written approval.

405.5 Each MTS with a current approval shall be listed on the Commission's website.

#### **406 RENEWAL APPLICATIONS**

406.1 Each approved MTS shall be submitted for renewal of its approval at least sixty (60) days prior to the expiration of the approval, unless the Office provides otherwise in writing. The procedures applicable to new applications shall apply to renewal applications, except as otherwise required by the Office.

406.2 An approval shall continue in force and effect beyond its expiration period during such time as an application for re-approval is pending in proper form.

406.3 Renewal of MTS approval shall require that the MTS be in compliance with all applicable provisions of this Title, and other applicable laws in effect at the time renewal is sought.

#### **407 SUSPENSION OR REVOCATION OF APPROVAL**

407.1 The approval of an MTS may be suspended or revoked by the Office with reasonable notice and an opportunity to be heard if the Office learns that the MTS or the associated owners or operators using are not in substantial compliance with this Title, or if that the MTS is being used in a manner that pose a significant threat to passenger or operator safety, or consumer protection.

#### **408 OPERATING REQUIREMENTS**

408.1 Each PSP shall operate in compliance with this Chapter, Chapters 6 and 8 of this Title, and all other applicable federal and District laws, including the requirements for

- 408.2 Each PSP shall comply with all applicable federal and District licensing, permitting, registration, anti-discrimination, and taxation requirements for a business operating in the District.
- 408.3 Each PSP shall either maintain a bona fide administrative office, consisting of a physical office in the District of Columbia, in the same manner required of a taxicab company under Chapter 5 of this Title and in compliance with all laws, rules, and regulations concerning the operation of a place of business in the District, or shall maintain a registered agent authorized to accept service of process, provided, however, that a PSP operated by a person required by a provision of this Title to maintain a bona fide administrative office in the District shall comply with such provision.
- 408.4 Each PSP shall maintain a customer service telephone number for passengers with a “202” prefix or a toll-free area code that shall be available during normal working hours 365 days per year.
- 408.5 Each PSP shall maintain a technical support telephone number for vehicle owners and operators with a “202” prefix or a toll-free area code that shall be available 24 hours per day, 365 days per year.
- 408.6 Each PSP shall operate only in compliance with §§ 508-513 of this Title, to the same extent as if the PSP were a taxicab company.
- 408.7 Each PSP shall:
- (a) Store its business records in a safe and secure manner, and in compliance with industry best practices and applicable federal and District law;
  - (b) Make its business records available for inspection and copying during regular business hours at the Office or at its bona fide administrative office, if maintained, within five (5) business days of its receipt of a written demand from the Office; and
  - (c) Retain its business records for at least five (5) years.
- 408.8 Each PSP and its owners, operators, officers, employees, agents, and representatives shall, at all times, cooperate with the instructions of public vehicle enforcement inspectors, other law enforcement officers, other authorized officials of the Office, and General Counsel to the Office, including a request in connection with a possible violation of this Title or other applicable law by any person seeking an operator’s identification (Face Card) number or a vehicle’s PVIN, previously reported in anonymous format under § 603.
- 408.9 Each PSP shall notify the Office if it learns of a security breach as to which a report must be made pursuant to the D.C. Consumer Personal Information

Security Breach Notification Act of 2006, D.C. Official Code §§ 28-3851, *et seq.* or other applicable law.

## **409 PROHIBITIONS**

- 409.1 No person may operate as a PSP or sell, lease, lend, or otherwise provide an MTS unit to any person in the District of Columbia without a current approval of its MTS under this Chapter.
- 409.2 No PSP may participate in a transaction involving taxicab service in the District of Columbia when the payment or the fare does not comply with the applicable provisions of this Chapter or Chapters 6 or 8 of this Title.
- 409.3 No PSP may alter or attempt to alter its legal obligations under this Title or to impose an obligation on any person that is contrary to public policy or that threatens passenger or operator safety, or consumer protection.
- 409.4 A PSP shall not associate with a taxicab operator currently providing service using a vehicle owned by a taxicab company which, as of the effective date of this rulemaking, provides credit card processing services to its operators, or, which, at any time, has applied to be a PSP.
- 409.5 A PSP shall not associate with, or allow its associated taxicab companies, independent owners, or taxicab operators to associate with, a dispatch service that is not operating in compliance with all the applicable provisions of this Title, and all federal and District of Columbia laws applicable to its business.
- 409.6 No PSP shall allow the use of its MTS if it does not have a current approval for such MTS under this Chapter.

## **410 ENFORCEMENT**

- 410.1 The enforcement of this Chapter shall be governed by the procedures in Chapter 7 of this Title. If, at the time of violation, the procedures in Chapter 7 do not extend in their terms to PSPs, such procedures shall be applied to a PSP as if such PSP were a taxicab owner or operator.

## **411 PENALTIES**

- 411.1 A PSP that violates this Chapter or an applicable provision of another Chapter of this Title is subject to:
- (a) A civil fine of two-hundred fifty dollars (\$250.00) for the first violation of a provision, which shall double for the second violation of the same provision, and triple for each subsequent violation of the same provision thereafter;



- (b) Confiscation of an MTS unit or unapproved equipment (including any fixed or mobile hardware component such as a smartphone, mobile data terminal, tablet, or attached payment card reader) used in connection with the violation:
- (c) Suspension, revocation, or non-renewal of the Office’s approval of its MTS;
- (d) Any combination of the sanctions listed in (a)-(d) of this Subsection.

## **499 DEFINITIONS**

“Approved MTS” means an MTS that has been approved for use by the Office under this Chapter.

“Associated” connotes a voluntary relationship of employment, contract, ownership, or other legal affiliation. For purposes of this Chapter, an association not in writing shall be ineffective for compliance purposes.

“Authorized MTS installation business” means a business authorized by the Office under this Title to install one or more approved MTSs.

“TCIS” or “Taxicab Commission Information System” means the information system operated by the Office for connection to the PSPs whose MTSs have been approved to operate in the District of Columbia.

“Cashless payment” means a payment made with a passenger’s payment card and processed by the PSP. A cashless payment is not a digital payment.

“Digital dispatch” means dispatch initiated by computer, mobile phone application, text, email , or Web-based reservation.

“Digital payment” means a payment made with a payment card or by a direct debit transaction and processed by a digital dispatch service using a vehicle’s MTS meter data. A digital payment is not a cashless payment.

“Dispatch” means the booking of a public vehicle-for-hire through an advance reservation from the person seeking service.

“District” means the District of Columbia.

“Independent taxicab” means a taxicab operated by an individual owner.

“License” shall have the meaning ascribed to it in the D.C. Administrative Procedure Act, D.C. Official Code § 2-502.

“Modern taximeter system” or “MTS” is a technology solution that combines taximeter equipment and the service of a PSP in the manner required by this Chapter and § 603.

“MTS meter data” means the information generated by the taximeter component of an MTS to calculate the rates and charges under § 801. Information entered manually by the operator or another person into an MTS unit or into any other device, except as permitted by § 801, is not MTS meter data.

“MTS unit” means an installation of an MTS in a particular vehicle.

“Office” means Office of Taxicabs.

“Operator” means a person who operates a public vehicle-for-hire.

“Owner” means a person, corporation, partnership, or association that holds the legal title to a public vehicle-for-hire, the registration of which is required in the District of Columbia. If the title of a public vehicle-for-hire is subject to a lien, a mortgagor may also be considered an owner.

“Payment card” means any major credit or debit card including Visa, Mastercard, American Express, and Discover.

“Payment service provider” or “PSP” is a business that offers an MTS, and, if such MTS is approved by the Office, provides the service and support for such MTS under this Chapter and § 603.

“Person” shall have the meaning ascribed to it in the D.C. Administrative Procedure Act, D.C. Official Code § 2-502.

“Public Vehicle-for-hire Identification Number” or “PVIN” is a unique number assigned by the Office of Taxicabs to each public vehicle-for-hire.

“Surcharge Account” is an account established and maintained by the PSP with the Office for the purpose of processing the Passenger Surcharge.

“Taxicab” means a public vehicle-for-hire that operates pursuant to Chapter 6 and other applicable provisions of this Title, having a seating capacity for eight (8) or fewer passengers, exclusive of the driver, and operated or offered as a vehicle for passenger transportation for hire.

“Taxicab company” means a taxicab company that operates pursuant Chapter 5 and other applicable provisions of this Title.

“Taxicab passenger surcharge” means a passenger surcharge required to be collected from the passenger and paid by the PSP for each trip in a taxicab in an amount established by § 801.

“TCIS” or “Taxicab Commission Information System” means the information system operated by the Office.

“Telephone dispatch” means dispatch initiated by a telephone call.

“Washington Metropolitan Area” means the area encompassed by the District of Columbia; Montgomery County, Prince Georges County, and Frederick County in Maryland; Arlington County, Fairfax County, Loudon County, and Prince William County and the cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park in Virginia.

Copies of this proposed rulemaking can be obtained at [www.dcregs.dc.gov](http://www.dcregs.dc.gov) or by contacting Jacques P. Lerner, General Counsel, District of Columbia Taxicab Office, 2041 Martin Luther King, Jr., Avenue, S.E., Suite 204, Washington, D.C. 20020. All persons desiring to file comments on this proposed rulemaking should submit written comments via e-mail to [dctc@dc.gov](mailto:dctc@dc.gov) or by mail to the D.C. Taxicab Office, 2041 Martin Luther King, Jr., Ave., S.E., Suite 204, Washington, D.C. 20020, Attn: Jacques P. Lerner, General Counsel, no later than thirty (30) days after the publication of this notice in the *D.C Register*.