

DISTRICT OF COLUMBIA TAXICAB COMMISSION

NOTICE OF SECOND 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 second proposed rulemaking to amend Chapter 4 (Hearing Procedures Applicable to Notices of Infractions) and Chapter 6 (Taxicab Parts and Equipment) of Title 31 (Taxicabs and Public Vehicles for Hire) 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*.

The Office intends to amend Chapter 6, TAXICAB PARTS AND EQUIPMENT, of Title 31, TAXICABS AND PUBLIC VEHICLES FOR HIRE, of the DCMR.

Section 600, APPLICATION AND SCOPE, is amended to read as follows:

600.5 Each taxicab company, independent owner, and taxicab operator 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 the installation, use, or operation of any part or equipment that is the subject of a provision of this Chapter.

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

602.1 All licensed taxicabs shall be equipped with a functioning taximeter that meets the following requirements and the requirements for a modern taximeter system (MTS) pursuant to § 603. In the event of a conflict between a provision of this Section, and § 603, the provision of § 603 shall control.

Section 603, SPECIALLY-EQUIPPED TAXICAB VEHICLES, is re-designated as Section 604.

A new Section 603, MODERN TAXIMETER SYSTEMS, is added to read as follows:

- 603.1 Implementation of modern taximeter systems (“MTSs”). Beginning on September 1, 2013 (“implementation date”):
- (a) Each taxicab shall operate only through the use of an MTS unit that allows a passenger to pay in cash or make a cashless payment;
 - (b) Each MTS unit shall be obtained from a payment service provider (“PSP”) that has current approval for the MTS and is operating in compliance with this Section and Chapter 4 of this Title;
 - (c) Each MTS unit, including the passenger console required by § 603.8, shall be installed by an authorized MTS installation business that has certified that such MTS unit meets all applicable provisions of this Title;
 - (d) Each taxicab company, independent owner, or taxicab operator, may associate with one or more dispatch services as provided in this Section, or the PSP may associate with one or more dispatch services as provided in Chapter 4; and
 - (e) The taxicab passenger surcharge shall be collected from the passenger and paid by the PSP for each taxicab trip, regardless of whether the passenger makes a digital payment through a digital dispatch service.
- 603.2 An MTS is a complete technology solution for taxicab metering and payment that pairs equipment meeting the requirements of § 603.9 with PSP service and support meeting the requirements of § 603.10. Approval of a proposed MTS shall be sought by a PSP pursuant to Chapter 4, which,

if granted by the Office, shall allow such PSP to provide its MTS units to taxicab companies and independent owners who wish to use them.

- 603.3 A list of approved MTSs and authorized MTS installation businesses shall be posted on the Commission's website by the effective date of this rulemaking.
- 603.4 Each taxicab company, independent owner, or operator, may receive telephone or digital dispatches from one or more dispatch services, provided such dispatch service is in compliance with all applicable provisions of this Title, and all other applicable laws, and the association is consistent with any written agreement between the taxicab company, independent owner, or operator, and the PSP. A digital payment for taxicab service shall be processed only as provided in Chapter 4 of this Title.
- 603.5 Installation and inspection of MTS units.
- (a) Each taxicab company and individual owner shall be responsible for making arrangements to obtain installation of an MTS unit, including a passenger console, through an authorized MTS installation business and to obtain any necessary training on the use of the MTS unit, to have the equipment installed and certified for each vehicle by an authorized MTS installation business, no later than the Implementation Deadline.
 - (b) Installation of an MTS unit shall be certified in a meter calibration report issued by the authorized MTS installation business as meeting all the applicable requirements of this Title, including integrating with or replacing the vehicle's taximeter; and
 - (c) Each vehicle's MTS unit shall be tested as part of the periodic vehicle inspection required by this Title for such vehicle.
- 603.6 All costs associated with obtaining an MTS unit, including installation, operation, repair, lease, service and support, maintenance, and upgrade, shall be the responsibility of the taxicab company or independent owner, but may be allocated by written agreement among the taxicab company or independent owner and the PSP that provides it.
- 603.7 Nothing in this Section shall be construed to solicit or create a contractual relationship between the District of Columbia and any person.

603.8 MTS equipment requirements.

Each MTS unit shall consist of any reasonable combination of fixed or mobile hardware components, such as a Bluetooth-enabled Smartphone, mobile data terminal, or tablet, with an attached or integrated payment card reader, and shall:

- (a) Operate only with the service and support of the PSP that provides the MTS unit and in a manner that allows the PSP to meet all of the requirements of § 603.10;
- (b) Allow a passenger to make a cashless payment or a cash payment for each trip,
- (c) Display text messages from the Office and permit pre-selected responses when the vehicle is stationary;
- (d) Not allow the operator to manually enter fare information except as allowed by § 801 or where otherwise authorized in writing by the Office;
- (e) Use a wireless 3G or better cellular data connection;
- (f) Use a high-sensitivity global positioning satellite receiver that provides failover geo-coding from mobile wireless networks;
- (g) Record all trips made by the vehicle;
- (h) Not store, or allow the operator to have access to, the passenger's payment card information after payment authorization has been issued;
- (i) Have only one physical access-point if wired to the taximeter, and allow no more than the number of Bluetooth connections necessary to meet MTS requirements, if connected wirelessly to the taximeter;
- (j) Prevent the MTS unit from being used when any of its components are not operating as required by a provision of this Title;
- (k) Provide the passenger with a receipt that complies with § 803;
- (l) Not use, incorporate, or connect to hardware available for personal use by the owner or operator of the vehicle unless the PSP demonstrates to the satisfaction of the Office that such use, incorporation, or connection does not pose a risk to passenger safety or privacy, or information security;

- (m) Use, incorporate, or connect only to technology that meets Open Web Application Security Project (“OWASP”) security guidelines, that complies with the current standards of the PCI Security Standards Council (“Council”) for payment card data security, if such standards exist, and, if not, then with the current guidelines of the Council for payment card data security, and, that, for direct debit transactions, complies with the rules and guidelines of the National Automated Clearing House Association; and
- (n) Not later than December 1, 2013, it shall include a passenger console that meets the following requirements:
 - (1) It has a display of not less than seven (7) inches and not more than twelve (12) inches in size, and is securely connected to the front seat or to a mount at shoulder height, midway between the sides of the vehicle;
 - (2) It complies with Section 508, and with the electronic and information technology (“EIT”) requirements of Section 504, of the Rehabilitation Act of 1973, and allows a visually impaired or mobility disabled passenger to independently complete the fare payment process without giving a payment card to the operator, through such mechanisms as braille print, audio prompting, input controls with tactile feedback for each function, numeric keys, and contrasting backgrounds;
 - (3) It includes, by not later than December 1, 2014, a safety feature that shall—
 - (A) Be triggered by a physical button or prominent screen icon;
 - (B) Be available at all times when a passenger is inside the vehicle;
 - (C) Send a real-time notification to the Office of Unified Communications that a taxicab passenger is reporting a threat to his or her safety;
 - (C) Be operated discreetly and without interference by the operator; and
 - (D) Incorporate features to prevent accidental or intentional misuse.
 - (4) It operates in the following manner:

- (A) When the MTS is engaged (at flag drop), the passenger console shall display for a period of not less than twenty (20) seconds or such other period as directed by the Office, a full-size image of the operator's DCTC identification card (Face ID), accompanied by a message as directed by the Office;
- (B) After the period required by § 603.9(m)(4)(A), the image of the identification card shall be minimized to an icon in the upper left-hand corner of the screen with the label "TOUCH HERE FOR DRIVER'S I.D.", which the passenger shall be able to maximize at any time prior to exiting the vehicle;
- (C) The PSP shall determine the sequence of the audio-visual content on the passenger console during the trip, which shall include the following items, as to which the passenger shall be able to turn off the sound at any time prior to exiting the vehicle:
 - (i) A public service announcement as directed by the Office;
 - (ii) The navigational path of the vehicle;
 - (iii) Advertising determined by the PSP, from which not less than thirty percent (30%) of the net revenue shall be paid to the owner of the vehicle;
- (D) At the conclusion of the trip, the passenger console shall display the total itemized charges and allow the passenger to make a payment in compliance with this Section; and
- (E) It operates as necessary to provide the safety feature required by 603.8 (n), if applicable.

603.9 MTS service and support requirements.

The PSP that provides its service and support for an MTS shall comply with the operating requirements of Chapter 4 and shall:

- (a) Collect and report all the information required by this Section for each trip, and allow digital payments only in compliance with § 402.3;
- (b) Maintain a data connection to each MTS unit that operates according to the following requirements—
 - (1) Validates the status of the operator's DCTC license (Face Card) in real-time by connecting to the TCIS to ensure the license is not revoked or suspended, and that the operator is in compliance with the insurance requirements of Chapter 9;
 - (2) Reports to the Office every twenty-four (24) hours via a single data feed electronic trip data, which means geospatially marking the pick-up, drop-off and current taxicab location information, and capturing and transmitting to the TCIS in a data structure consistent across all PSPs as established by the Office, the following information:
 - (A) The date,
 - (B) Anonymously-reported but unique operator license (Face Card) number and PVIN;
 - (C) The name of the taxicab company, association, or fleet if applicable;
 - (D) The time at beginning of tour of duty;
 - (E) The time and mileage of each trip;
 - (F) The time and geospatially recorded place of origin and time and geospatially recorded place of destination of each trip;
 - (G) The number of passengers and fare charged for each trip;
 - (H) The time at the end of each tour of duty

- (I) The unique trip number;
 - (J) The itemized fare including any tolls, surcharges, and any gratuity for credit or debit purchases;
 - (K) The form of payment (cash, cashless payment, digital payment, voucher, or any other type of non-cash payment the PSP is approved to offer); and
- (3) Provides the Office with the information necessary to needed to insure that the Office receives the taxicab passenger surcharge for each taxicab trip; and
- (c) Maintain an accurate inventory of its associated vehicles and operators, in the manner designated by the Office, subject to the following requirements—
- (1) For each vehicle, the inventory shall contain: the name of and contact information for its owner(s), including work, home, and cellular telephone numbers; the vehicle's PVIN, make, model, and year of manufacture; certification by the PSP that the vehicle is in compliance with the insurance requirements of Chapter 9 of this Title; an indication of whether the vehicle is wheelchair accessible; an indication with whether the vehicle is in active use; and, if the vehicle is associated with a taxicab company, association, or fleet, the name of and contact information for such company, association, or fleet;
 - (2) For each operator, the inventory shall contain: the name of and contact information for such operator, including work, home, and cellular telephone numbers; his or her DCTC operator license (Face Card) number; an indication of whether such operator is actively using the MTS; and, if he or she is associated with a taxicab company, association, or fleet, the name of and contact information for such company, association, or fleet; and
 - (3) The Office may remove a vehicle or operator from the inventory at any time with reasonable notice to the PSP if such vehicle or operator is not legally authorized to operate, or if an MTS unit is not legally authorized for use; and

- (d) Maintain a taxicab surcharge account and be responsible for ensuring that the taxicab passenger surcharge is collected for each trip, subject to the following requirements:
 - (1) Remit a payment to the D.C. Treasurer at the end of each seven (7) day period reflecting the sum of all taxicab passenger surcharges owed to the Office for taxicab trips made during such period, based on the trip data provided during such period, and shall send contemporaneously via email a report to the Office certifying its payment and providing a basis for the amount thereof;
 - (2) The PSP shall cooperate in good faith with the Office in the event of any discrepancy between a payment and the trip data from the MTS, provided however, that if the PSP and Office are unable to agree on a resolution of a dispute within thirty (30) days, the Office may, in its discretion, make a claim against the security bond to satisfy the amount of the discrepancy;
 - (3) The account shall be closed and the bond returned to the PSP within thirty (30) days following any action (including a decision to not take an allowable action) that results in the MTS no longer being approved, provided however, that the bond shall not be returned during such time as there remains a discrepancy in the amount owed for taxicab passenger surcharges, which shall be resolved as provided in this Section; and
- (e) Provide the service, support, and content necessary to meet the operating requirements of the passenger console required by § 603.8 (n).

603.10 Prohibitions under this Section.

No operator shall provide taxicab service except through the use of an approved MTS unit installed by a authorized taximeter installation business.

No operator shall operate a vehicle without a properly-functioning MTS unit.

No operator shall provide service unless both the operator and the vehicle are on the MTS inventory at the time the trip is booked through dispatch or through a street hail.

No operator shall charge any person a fare for taxicab service that does not comply with § 801.

No operator shall cause or allow any person to be charged for taxicab service through a digital dispatch service except in compliance with § 402.3.

No operator shall access or attempt to access a passenger's payment card information after the payment has been processed.

No operator shall associate with a PSP if such operator is, at that time, associated with a taxicab company that provides payment card processing for its associated operators, and has applied for or received approval to act as a PSP pursuant to Chapter 4.

No taxicab shall be equipped with more than one MTS unit.

No taxicab company or independent owner shall knowingly permit its vehicle to be operated in violation of this Section, Chapter 4, or § 801.

No owner or operator shall alter or tamper with a component of an MTS unit or make any change in the vehicle that prevents the MTS unit from operating in compliance with this Title.

No operator shall operate a taxicab in which the MTS has been tampered with, broken, or altered. The operation of a taxicab with a tampered, broken, or altered MTS shall give rise to a rebuttable presumption that the operator knew of the tampering, breaking, or alteration.

Section 612, PENALTY, is amended to read as follows.

612 PENALTIES

612.1 Each violation of this Chapter by a taxicab company, independent owner, or taxicab operator shall subject the violator to:

- (a) The civil fines and penalties set forth in § 825 or in an applicable provision of this Chapter, provided, however, that where a specific civil fine or penalty is not listed in § 825 or in this Chapter, the fine shall be one-hundred dollars (\$100), and that, in all instances where a civil fine may be imposed, it shall double for the second violation of the same provision, and triple for each violation of the same provision thereafter;
- (b) Impoundment of a vehicle operating in violation of this Chapter;

- (c) Confiscation of an MTS unit or unapproved equipment used for taxi metering in violation of this Chapter;
- (d) Suspension, revocation, or non-renewal of such person's license or operating authority; or
- (e) Any combination of the sanctions listed in (a)-(d) of this Subsection.

612.2 A PSP that violates a provision of this Chapter shall be subject to the penalties in Chapter 4.

Copies of this proposed rulemaking can be obtained at 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 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*.