

## DISTRICT OF COLUMBIA TAXICAB COMMISSION

### NOTICE OF SECOND EMERGENCY AND 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.); 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.)) (“Fund Amendment Act”), hereby gives notice of its intent to create a new Chapter 16 (Dispatch Services) of the District of Columbia Municipal Regulations (DCMR).

The first emergency and proposed rulemaking was adopted on May 24, 2013, took effect on May 31, 2013 and was published on June 7, 2013 in the *D.C. Register* at 60 DCR 8714. Those proposed rules superseded the Chapter 16 second notice of proposed rulemaking published at 60 DCR 6723 on May 10, 2013. This second emergency and proposed rulemaking supersedes the first emergency and proposed rulemakings published at 60 DCR 8714.

This Second Emergency and Proposed Rulemaking is necessary for the immediate preservation and promotion of the public peace, safety, and welfare of the residents of and visitors to the District of Columbia by updating and clarifying the complete regulatory framework that implements the modern taximeter system (MTS), as it pertains to the dispatch of taxicabs. This Rulemaking has been drafted to regulate digital dispatch services only as authorized by the Fund Amendment Act, and contains only “rules and regulations that are necessary for the safety of customers and drivers or consumer protection,” which “protect personal privacy rights of customers and drivers,” which “[will] not result in the disclosure of confidential business information,” and which “[will] allow providers to limit the geographic location of trip data to individual census tracts”. These rules will also comply fully with the Taxicab Service Improvement Amendment Act of 2012, D.C. Law 19-0184, 59 DCR 9431 (“Improvement Act”), and the Public Vehicle for Hire Innovation Amendment Act of 2013, D.C. Law 19-0270, 60 DCR 1717 (“Innovation Act”), expected to be effective and applicable on October 1, 2013 (see Fiscal Year 2014 Budget Support Act of 2013 (B20-0199) and Fiscal Year Budget Support Emergency Act of 2013 (B20-0337)).

Final regulations pertaining to MTS were adopted by the Commission on May 17, 2013, published at 60 DCR 6993 - 7016, following two comment periods, public hearings held on February 15 and April 17, and the review and consideration of numerous public comments. Those rules, in Chapters 4, 6 and 8, reference dispatch and digital payment for taxicabs, functions provided by the digital dispatch services that are the subject of this Rulemaking. This Second Emergency and Proposed Rulemaking is therefore critical in order to prevent legal incongruities that would otherwise halt the implementation of the MTS, including, without

limitation, the requirement in § 1604 that a dispatch service obtain a certificate of operating authority from the Office of Taxicabs. In the absence of such a requirement, the Office of Taxicabs would have no enforceable, predictable, reliable, or consistent means of knowing that a dispatch service is operating in the District of Columbia, that it has dispatched a taxicab, that it has processed a digital payment, that it has integrated with a payment service provider (PSP) that operates an MTS as required by Chapter 4, that it has collected the taxicab passenger surcharge as required by Chapter 4, or that it is otherwise in compliance with the provisions of this Title applicable to it and other businesses directly involved in the public vehicle-for-hire industry in the District of Columbia.

This Rulemaking also updates and clarifies the complete regulatory framework that implements the digital payment system (DPS), as it pertains to the dispatch of sedan class vehicles. Third proposed regulations pertaining to DPS were published on July 12, 2013, at 60 DCR 10114 - 10139 following three comment periods, a public hearing held March 29, 2013, and the review and consideration of numerous public comments. Those rules, proposed to amend Chapters 12 and 14, reference dispatch and digital payment for sedans, functions also provided by the digital dispatch services that are the subject of this Rulemaking. This Rulemaking shall not be enforced by the Office of Taxicabs with respect to sedans unless and until final rulemaking pertaining to Chapters 12 and 14 are approved by the Commission and published in the *D.C. Register*, and, then, only in the manner and at such time as provided in such rulemaking.

Any regulation that becomes effective pursuant to this emergency rulemaking will remain in effect for up to one hundred twenty (120) days after the date of adoption (expiring November 22, 2013), or upon earlier amendment or repeal by the Commission, or the publication of final rulemaking, whichever occurs first.

**The Commission intends to add Chapter 16, DISPATCH SERVICES, of Title 31, TAXICABS AND PUBLIC VEHICLES FOR HIRE, of the DCMR, to read as follows:**

## **CHAPTER 16 DISPATCH SERVICES**

### **1600 APPLICATION AND SCOPE**

- 1600.1 This chapter establishes substantive rules governing dispatch services for public vehicles-for-hire, including rules to ensure the safety of passengers and operators, for consumer protection, and to collect a passenger surcharge.
- 1600.2 The provisions of this chapter shall be interpreted to comply with the language and intent of the District of Columbia Taxicab Commission Establishment Act of 1985, effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code §§ 50-301, *et seq.*).
- 1600.3 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.

### **1601 GENERAL REQUIREMENTS**

- 1601.1 No person shall provide telephone or digital dispatch, or digital payment, for public vehicles-for-hire in the District, except in compliance with this chapter, all applicable provisions of this title, and other applicable laws.
- 1601.2 Nothing in this chapter shall be construed to solicit or create a contractual relationship between the District of Columbia and any person.
- 1601.3 Implementation of regulations applicable to dispatch services and associated owners and operators. Beginning on September 1, 2013, each dispatch service shall:
- (a) Operate in compliance with § 1603; and
  - (b) Maintain current operating authority from the Office under § 1604 that extends to all services it provides in the District;
- 1601.4 No person regulated by this title shall associate with, integrate with, or conduct a transaction in cooperation with, a dispatch service that does not have current operating authority for the public vehicle-for-hire service in which the dispatch service is engaged.

## **1602 RELATED SERVICES**

- 1602.1 A person may operate a dispatch service and one or more affiliated businesses, provided each affiliated business is operated in compliance with all applicable provisions of this title and other applicable laws.
- 1602.2 All provisions of this title applicable to digital dispatch services (DDS) shall apply equally to each DDS regardless of whether such DDS receives payment from the passenger or the operator in connection with dispatch services.

## **1603 OPERATING REQUIREMENTS FOR ALL DISPATCH SERVICES**

- 1603.1 No dispatch service shall operate in the District except in compliance with all provisions of this section.
- 1603.2 Each dispatch service that provides digital services for sedans shall operate in compliance with this chapter and Chapter 14 of this title.
- 1603.3 Each dispatch service that participates in providing taxicab service shall operate in compliance with this chapter and Chapters 6 and 8 of this title.
- 1603.4 Each dispatch provided by a dispatch service shall comply with the definition of “dispatch”.

- 1603.5 Each gratuity charged by a dispatch service shall comply with the definition of “gratuity”.
- 1603.6 Each digital dispatch service that processes digital payments shall—
- (a) Comply with the requirements for passenger rates and charges set forth in § 801 for taxicab service and § 1402 for sedan service;
  - (b) If the payments are processed for taxicab service, comply with the integration, payment, and passenger surcharge requirements of § 408;
  - (c) Provide receipts as required by § 803 for taxicab service and § 1404 for sedan service;
  - (d) Use technology that meets Open Web Application Security Project (“OWASP”) security guidelines, complies with current standards of the PCI Security Standards Council (“Council”) for payment card data security, if such standards exist, and, if not, then with current guidelines of the Council for payment card data security, and, for direct debit transactions, complies with the rules and guidelines of the National Automated Clearing House Association; and
  - (e) Promptly inform the Office of a security breach requiring a report under the Consumer Personal Information Security Breach Notification Act of 2006, effective March 8, 2007 (D.C. Law 16-237, D.C. Official Code §§ 28-3851, *et seq.*), or other applicable law.
- 1603.7 Each dispatch shall clearly provide the person seeking service with the option to request an available wheelchair-accessible vehicle.
- 1603.8 Each dispatch service shall maintain a bona fide administrative office or a registered agent authorized to accept service of process, provided, however, a dispatch service operated by a taxicab company required to maintain such an office pursuant to Chapter 5 of this title shall operate its dispatch service at that location or another bona fide administrative office.
- 1603.9 Each dispatch service shall maintain a customer service telephone number for passengers with a “202” prefix or a toll-free area code, or an email address posted on its website that is answered or replied to during normal business hours.
- 1603.10 Each dispatch service shall maintain a website with current information that includes:
- (a) The name of the dispatch service;

- (b) Contact information for its bona fide administrative office or registered agent authorized to accept service of process;
- (c) Its customer service telephone number or email address, and;
- (d) The following statement prominently displayed:

Public vehicle-for-hire services in Washington, DC  
 are regulated by the DC Taxicab Commission  
 2041 Martin Luther King Jr., Ave., SE, Suite 204  
 Washington, DC. 20020  
[www.dctaxi.dc.gov](http://www.dctaxi.dc.gov)  
 dctc3@dc.gov 1-855-484-4966 TTY: 711

- (e) If not included on the website, the dispatch service application must include a statement of how the fare is calculated for each class of service it offers, which shall include a statement of the rates and charges allowed by § 1402, and, for sedan service, shall indicate whether the dispatch service uses demand pricing and, if so, how such pricing affects its rates.

1603.11 Each dispatch service shall comply with §§ 508 through 513, to the same extent as if it were a taxicab company.

1603.12 Each dispatch service shall provide its service throughout the entire District.

1603.13 Each dispatch service shall require through its terms of service that each vehicle operator with which it is associated fully perform the service agreed to in a dispatch, including picking up the passenger at the agreed time and location, except for a bona fide reason not prohibited by § 819.5 or other applicable provision of this title.

1603.14 A dispatch service shall not:

- (a) Release information to any person that would result in a violation of the personal privacy of the passenger or the person requesting service, or that would threaten the safety of a passenger or an operator; or
- (b) Permit access to real-time information about the location, apparent gender, or number of passengers awaiting pick up by a person not authorized by the dispatch service to receive such information.

This subsection shall not limit access to information by the Office or a District enforcement official.

- 1603.15 A dispatch service shall not transmit to the operator any information about the destination of a trip, except for the jurisdiction of the destination, until the trip has been booked.
- 1603.16 Each dispatch service shall store its business records in compliance with industry best practices and all applicable laws, make its business records available for inspection and copying as directed by the Office, and retain its business records for five (5) years.
- 1603.17 Each dispatch service shall be in compliance with all applicable provisions of this title and other laws applicable to public vehicles-for-hire, including all reciprocal agreements between governmental bodies in the Washington Metropolitan Area governing public vehicle-for-hire service such as those in § 828.
- 1603.18 Each DDS that provides digital services for sedans shall:
- (a) Maintain with the Office an accurate and current inventory of the vehicles and operators associated with the DDS to use its system in the manner required by § 1403; and
  - (b) Collect from the passenger and pay to the District the sedan passenger surcharge in the manner required by § 1403.

#### **1604 CERTIFICATE OF OPERATING AUTHORITY**

- 1604.1 No dispatch service shall participate in providing a public vehicle-for-hire service in the District without a current certificate of operating authority issued by the Office pursuant to this section that expressly includes all services it offers, except for a taxicab company with existing operating authority under Chapter 5 of this title, which, as of the effective date of this rulemaking, is operating a telephone dispatch service.
- 1604.2 An applicant seeking an initial certificate of operating authority from the Office shall provide the following information (including such documentation as required by the Office):
- (a) Its name and contact information;
  - (b) The name of and contact information for each public vehicle-for-hire business or service associated with, or operated by an owner of, the dispatch service, including any payment service provider (PSP), and any business or service operated or offered outside the District,
  - (c) A technical description of the dispatch or payment solution, digital payment system, or both, offered by the DDS, including the trade names and software applications, platforms, and operating systems used;

- (d) A sample of each agreement or policy, including any user agreement or privacy policy, applicable to the DDS's association with vehicle owners and operators, and with persons seeking public vehicle-for-hire services;
- (e) An indication by the applicant of whether the dispatch service intends to offer dispatch of sedans, and whether it intends to offer dispatch services or digital payments for taxicabs, or both;
- (f) If it will be dispatching sedans, its initial operator and vehicle inventory pursuant to § 1403;
- (g) A certification by the applicant that the DDS owns the right to, or holds licenses to, all the intellectual property used by the dispatch service for all technology used for the dispatch or payment solution or the digital payment system it provides; and
- (h) Such other information and documentation as the Office may require to determine that the dispatch or payment solution (for taxicabs), or digital payment system (for sedans), meets all applicable requirements.

1604.3 Each application under § 1604.2:

- (a) Shall be provided under penalty of perjury;
- (b) Shall be accompanied by the surcharge bond required by § 403.3 (if the dispatch service is a DDS is required to collect a passenger surcharge for taxicab service), or by § 1403, if the dispatch service is a DDS that will be dispatching sedans, provided, however, that a DDS shall not be required to deposit a more than one (1) surcharge bond if the DDS collects and pays passenger surcharges for both taxicabs and for sedans; and
- (c) Shall be accompanied by a fee of five hundred dollars (\$500), except that the fee for an application to amend an existing certificate of operating authority under § 1604.5, regardless of the number of services proposed to be added to the existing certificate, shall be three hundred dollars (\$300).

1604.4 Each certificate of operating authority shall continue in force and effect for twenty four (24) months, during which time no substantial change may be made to a DDS's dispatch or payment solution for taxicabs, or digital payment system for sedans, without written approval from the Office. A substantial change pertains to the processing of payments, and does not contemplate version upgrades, new technologies, application updates or service upgrades. A DDS shall inform the Office of a proposed substantial change to its dispatch or payment solution or digital payment system for sedans, that would require written approval at least thirty (30) days prior to the change, and shall notify the Office of any other

change in the information contained in the certification or its supporting documentation, such as contact information, within seven (7) days of the change.

- 1604.5 Each DDS with current operating authority under this section may at any time file an application to amend its operating authority to include additional services it wishes to market to public vehicle-for-hire owners and operators.
- 1604.6 Each DDS with current operating authority under this section shall file to renew its operating authority at least sixty (60) days prior to the expiration thereof, by providing the information or documentation required for an initial application to the extent required by the Office. Operating authority shall continue in force and effect beyond its expiration period during such time as an application to renew is pending acceptance in proper form.
- 1604.7 A DDS that maintains current operating authority under this section shall annually provide, beginning on the first (1<sup>st</sup>) day of the thirteenth (13<sup>th</sup>) month after its operating authority was issued:
- (a) A report on the wait times and fares charged to passengers seeking wheelchair-accessible service in the prior twelve (12) months; and
  - (b) A list of incidents in the prior twelve (12) months involving an allegation or dispute concerning:
    - (1) A payment, where the dispute involved fifty dollars (\$50) or more;
    - (2) Fraud or criminal activity; or
    - (3) Violations of the anti-discrimination rules of Chapter 5 of this title, and;
  - (c) the number of disputes in 1604.7(b) that were resolved.
- 1604.8 The Office may arrange one (1) demonstration for each of the DDS's dispatch or payment solutions for taxicabs, or its digital payment system for sedans, where the Office's technical staff may examine and test the equipment and ask questions of the DDS's technical staff, who shall attend the demonstration.
- 1604.9 The Office shall determine whether to grant or deny an application within fourteen (14) days after it is filed, provided however, that such period may be extended by the Office for no more than ten (10) days with notice to the DDS.
- 1604.10 If the Office grants an application, it shall provide notice to the DDS in writing.
- 1604.11 If the Office denies an application, it shall state the reasons for its decision in writing. A decision to deny 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 certificate 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 filing shall extend an existing certificate pending the final decision of the Office.

- 1604.12 The name of each DDS with current operating authority, and the name of each service included in such authority, including any dispatch or payment solutions for taxicabs, or a digital payment system for sedans, shall be listed on the Commission's website.
- 1604.13 Operating authority may be temporarily or indefinitely suspended by the Office with reasonable notice and an opportunity to be heard if the Office learns that any of the DDS's services, or the persons using it, are not in substantial compliance with this title, or if a DDS's digital payment system, or its dispatch or payment solution, is being used in a manner that poses a significant threat to passenger or operator safety, or consumer protection.

## **1605 PROHIBITIONS**

- 1605.1 No person shall dispatch a public vehicle-for hire or process a digital payment for a public vehicle-for-hire in the District except as provided in this chapter.
- 1605.2 No person shall operate a dispatch service without a valid and current certificate of operating authority that extends to all the services it provides in the District.
- 1605.3 No dispatch service shall dispatch or process digital payments except as provided in this chapter and Chapter 8 (for taxicabs), and this chapter and Chapter 14 (for sedans), and all other applicable provisions of this title and other applicable laws.
- 1605.4 No dispatch services shall dispatch or process payments of sedan service in the District unless the payment, and the fare, including the rates, charges, and gratuity, if any, comply with the applicable provisions of § 1603.6, and the DDS collects the sedan passenger surcharge and received by the District.
- 1605.5 No dispatch service may alter or attempt to alter its legal obligations under this title or to impose an obligation on any person or limit the rights of any person in a manner that is contrary to public policy or that threatens passenger or operator safety or consumer protection.
- 1605.6 A DDS shall not provide digital dispatches to a taxicab operator who provides service with a vehicle that displays on its exterior the name, color scheme, or other unique branding of a taxicab fleet or association, if such fleet or association does not agree to the operator's association with the DDS, and—

- (a) For thirty (30) days following the effective date of this rulemaking, such fleet or association is operating a dispatch service limited to its associated vehicles; or
- (b) After thirty (30) days following the effective date of this rulemaking, such fleet or association has filed for or received registration for a DDS limited to its associated vehicles.

1605.7 No DDS shall provide digital payment for taxicabs except as provided in Chapter 4.

1605.8 No DDS shall provide digital payment for taxicabs which allows the operator to manually enter fare information into any device except as permitted by § 801.

1605.9 No fee charged by a DDS in addition to a taximeter fare shall be processed by a payment service provider, or displayed on or paid using any component of an MTS unit.

**1606 ENFORCEMENT**

1606.1 The enforcement of any provision of this chapter shall be governed by the procedures set forth in Chapter 7 of this title. If, at the time of violation, the procedures in Chapter 7 do not extend in their terms to DDSs, violations of this chapter shall be enforced as if such DDS were a taxicab owner or operator..

**1607 PENALTIES**

1607.1 A dispatch service that violates this chapter shall be subject to:

- (a) A civil fine of five hundred dollars (\$500) for the first violation of a provision, one-thousand dollars (\$1,000) for the second violation of the same provision, and one-thousand five-hundred dollars (\$1,500) for each subsequent violation of the same provision;
- (b) Suspension, revocation, or non-renewal of a Certificate of Registration or Certificate of Operating Authority;
- (c) Any penalty available under Chapter 6 in connection with the service and support of an MTS for the operation of taxicabs or under Chapter 14 in connection with the service and support of a sedan payment system (SPS) for the operation of sedans; or
- (d) Any combination of the sanctions listed in this Subsection.

**1699 DEFINITIONS**

- 1699.1 The terms “cashless payment,” “modern taximeter system,” “MTS,” “MTS unit”, “payment service provider”, “PSP”, and “taximeter fare” shall have the meanings ascribed in Chapter 4 of this title.
- 1699.2 The term “sedan” shall have the meaning ascribed to it in Chapter 12 of this title.
- 1699.3 The terms “sedan payment system,” and “SPS” shall have the meanings ascribed to them in Chapter 14 of this title.
- 1699.4 The term “person” and “license” shall have the meanings ascribed to them in the D.C. Administrative Procedure Act, D.C. Official Code § 2-502.
- 1699.5 The following words and phrases shall have the meanings ascribed:

**“Affiliated”** - common ownership.

**“Associated”** - a voluntary relationship of employment, contract, joint venture, or agency. For purposes of this chapter, an association not in writing shall be ineffective for compliance purposes.

**“Booked”** - agreed and accepted by the customer.

**“Customer”** - a person that requests public vehicle-for-hire service, including a passenger, or any other person that requests service on behalf of a passenger.

**“Dispatch”** - booking public vehicle-for-hire service through an advance reservation consisting of a request for service from a person seeking service, an offer of service by the dispatch service, an acceptance of service by the person seeking service, and an acknowledgement by the dispatch service that includes an estimated time of arrival of a booked vehicle.

**“Dispatch or payment solution”** - any reasonable technology solution that allows a DDS to provide taxicabs with digital dispatch service, digital payment service, or both.

**“Digital dispatch”** - dispatch via computer, mobile phone application, text, email, or Web-based reservation.

**“Digital dispatch service” or “DDS”** - a business that provides digital dispatch of taxicabs, sedans, or both.

**“Digital payment”** - a non-cash payment processed by a digital dispatch service and not by the vehicle operator, such as a payment by a payment card (a credit or debit card), processed through a mobile- or Web-based application. A digital

payment does not mean a “cashless payment” as such term is defined in Chapter 6 of this title.

**“Digital services”** - digital dispatch or digital payment for a public vehicle-for-hire.

**“Dispatch service”** - a business that offers telephone or digital dispatch.

**“District enforcement official”** - a public vehicle enforcement inspector or other authorized official, employee, or general counsel of the Office, or a law enforcement official authorized to enforce a provision of this title.

**“Office order”** - an administrative issuance by the Office to a class of persons or vehicles regulated by a provision of this Title or other applicable law that: adopts a form; issues a guideline or protocol applicable to persons other than employees of the Office; provides guidance concerning a provision of this Title; or takes any action that the Office deems necessary for purposes of administration, enforcement, or compliance.

**“Passenger surcharge”** - the passenger surcharge required to be collected from passengers and remitted to the District for each trip in a taxicab or sedan, as required by Chapters 4, 6, and 8, for taxicabs, and by this chapter and Chapter 14 for sedans.

**“Surcharge bond”** - a security bond of fifty-thousand dollars (\$50,000) payable to the D.C. Treasurer that is effective throughout the period when the dispatch service has operating authority and for one (1) year thereafter.

**“Telephone dispatch”** - dispatch via telephone.

**“Telephone dispatch service”** - a business that provides telephone dispatch for taxicabs.

Copies of the proposed rulemaking can be obtained at [www.dcregs.dc.gov](http://www.dcregs.dc.gov) or by contacting Jacques Lerner, General Counsel and Secretary to the Commission, District of Columbia Taxicab Commission, 2041 Martin Luther King, Jr., Avenue, S.E., Suite 204, Washington, D.C. 20020. All persons desiring to file comments on the proposed rulemaking should submit written comments via e-mail to [dctc@dc.gov](mailto:dctc@dc.gov) or by postal mail or hand delivery to the DC Taxicab Commission, 2041 Martin Luther King, Jr., Ave., S.E., Suite 204, Washington, D.C. 20020, Attn: Jacques Lerner, General Counsel and Secretary to the Commission. Comments should be filed within thirty (30) days after publication of this notice in the *D.C. Register*.