

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(c)(3) and (7), 14, 20, and 20g of the District of Columbia Taxicab Commission Establishment Act of 1985, effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code §§ 50-307(c)(3), (c)(7), 50-313, 50-319, 50-329 (2012 Repl. & 2013 Supp.)), hereby gives notice of its intent to adopt amendments to Chapters 4 (Taxicab Payment Services) and 5 (Taxicab Companies, Associations and Fleets) of Title 31 (Taxicabs and Public Vehicles for Hire) of the District of Columbia Municipal Regulations (DCMR).

These rules will: clarify the time period by which a payment service provider (PSP) must pay each taxicab company or independent owner with which the PSP is associated the portion of such PSP's revenue to which the taxicab company or independent owner is entitled; increase to one thousand dollars (\$1,000) the fine for a PSP's failure to timely make such a payment; require taxicab companies that contract with PSPs to pay associated taxicab operators the portion of the revenue received from the PSP to which the operator is entitled within twenty-four (24) hours or one (1) business day of when the revenue is received by the taxicab company from the PSP; and establish fines of one thousand dollars (\$1,000) for a taxicab company's failure to timely make such a payment and for failure to ensure that the passenger surcharge is collected and paid to the District for each trip. .

These emergency and proposed rules are necessary because there is an immediate need to preserve and promote the safety and welfare of the District's taxicab industry, which is jeopardized by late, reduced, and denied payments to taxicab owners and operators that use the modern taximeter systems (MTSs) provided by payment service providers (PSPs). The failure to timely and fully pay all taxicab owners and operators the revenue generated through their use of MTSs prevents them from obtaining the protections contemplated by the Commission, in addition to negatively impacting residents and visitors by hindering the service improvements intended by the D.C. Council. Taxicab drivers, regardless of whether they rent or own their own vehicles, must timely receive the revenue to which they are entitled by using an MTS. Further, it is imperative that all regulated entities remit the passenger surcharge to the District consistent with this Title, and ongoing violations of this rule necessitate an increased fine for further violations.

An emergency rulemaking was adopted on December 11, 2013, took effect immediately, and was published in the *D.C. Register* on December 20, 2013 at 60 DCR 17047 to remain in effect for sixty (60) days after the date of adoption. Further emergency rulemaking is therefore required in order to avoid the outcomes (stated above) and legal incongruities that would result if while the proposed rules are under consideration. This emergency and proposed rulemaking was adopted by the Commission on March 12, 2014 and will take effect immediately. The emergency rules shall remain in effect for one hundred twenty (120) days after the date of adoption (expiring July 9, 2014), unless earlier superseded by an amendment or repeal by the Commission, or the publication of a final rulemaking, whichever occurs first.

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

Chapter 4, TAXICAB PAYMENT SERVICES, is amended as follows:

Section 411, PENALTIES, is amended as follows:

Subsection 411.2 is amended as follows:

Paragraph (c) is amended by striking the period at the end of the paragraph and inserting the phrase “, or” in its place.

New Paragraphs (d) and (e) are added to read as follows:

- (d) A violation of § 408.13 by failing to pay each taxicab company or independent owner with which it is associated the portion of such PSP’s revenue to which the 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, or
- (e) A violation of § 409.5 by failing to ensure that the passenger surcharge is collected and paid to the District for each trip consistent with this Title.

Chapter 5, TAXICAB COMPANIES, ASSOCIATIONS AND FLEETS, is amended as follows:

Section 509 is amended to read as follows:

509 PROMPT PAYMENT TO TAXICAB OPERATORS

- 509.1 Except where a taxicab company and taxicab operator otherwise agree, each taxicab company that contracts with a payment service provider (PSP) for modern taximeter system (MTS) units in its associated vehicles shall pay each of its associated operators the portion of the revenue received from the PSP to which the associated operator is entitled within twenty-four (24) hours or one (1) business day of when the revenue is received by the taxicab company from the PSP.
- 509.2 A taxicab company shall be subject to a civil fine of one thousand dollars (\$1,000) for the first violation of § 509.1, a civil fine of two thousand dollars (\$2,000) for the second violation, and a civil fine of three thousand dollars (\$3,000) for the third violation and each subsequent violation.

Copies of this proposed rulemaking can be obtained at www.dcregs.dc.gov or by contacting Jacques P. 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 action should submit written comments via e-mail to dctc@dc.gov or by mail to the DC Taxicab Commission, 2041 Martin Luther King, Jr., Ave., S.E., Suite 204, Washington, DC 20020, Attn: Jacques P. Lerner, General Counsel and Secretary to the Commission, no later than thirty (30) days after the publication of this notice in the *D.C Register*.