

“Fight to Improve Wheelchair Access in NYC and Its National Implications”

Webinar – 7/24/2014

Additional Resources:

District of Columbia Taxicab Commission Disability Advisory Committee Report

New York City Taxi and Limousine Commission – Disabled Accessibility Plan

Implementation Agreement

Memo of Understanding

Department of Justice Statement of Interest

Noel v TLC Decision

Senate Bill 6118A

DISTRICT OF COLUMBIA TAXICAB COMMISSION DISABILITY ADVISORY COMMITTEE

February 20, 2014

*Comprehensive
Report and
Recommendations
on Accessible
Taxicab Service*

EXECUTIVE SUMMARY

On July 10, 2012, the District of Columbia City Council passed the DC Taxicab Service Improvement Amendment Act of 2012 (DC Taxi Act) to improve taxicab service in the District. Section 20f of the Act addresses accessibility for individuals with disabilities, and requires the DC Taxicab Commission (DCTC) to establish a Disability Taxicab Advisory Committee (the Committee) to advise the Commission on how to make taxicab service in the District more accessible for individuals with disabilities. Under the DC Taxi Act, the Committee was tasked with producing a comprehensive report and making recommendations to the Mayor and to the Council on 8 specific issues regarding accessible taxi service.

A. Legal Requirements

In 2012, taxis in the District of Columbia delivered an estimated 21 million tourists, business travelers, advocates, workers, and residents to their hotels, Hill visits, businesses, homes, places of worship, and other destinations. The rights of those tourists, travelers, workers and residents with disabilities to access taxi and sedan services in the District are guaranteed under the Americans with Disabilities Act (ADA) and corresponding regulations, the DC Taxi Act, and the DC Human Rights Act (DCHRA).

B. The Need for Accessible Taxi Service in the District

Taxis are an essential form of transportation for all individuals, but especially for individuals with disabilities. According to a 2002 study by the U.S. Bureau of Transportation Statistics, “Four times as many disabled people as nondisabled people lack suitable transportation options to meet their daily mobility needs.”ⁱ In DC, for non-disabled individuals, taxis are an important transportation alternative as a result of their availability and ease of use.

Unfortunately, this is not currently the case for individuals with disabilities. In the District, there are only 20 wheelchair accessible taxis out of the approximately 7,000 that operate in the District. This is equivalent to about ¼ of 1 percent of the taxis in the District, and this low number is a very significant barrier to the many individuals with disabilities that live in or visit the District. And as was recently noted in a report on a local television station, there is an additional barrier in getting taxis to even stop for, much less provide service to, individuals with disabilities.

C. Other Jurisdictions Providing Accessible Taxi Service

There are efforts being made across the country by local advocates, city agencies and regional transportation agencies to increase the number of wheelchair accessible (“accessible”) taxis. A few other jurisdictions that are working on improving their accessible taxi service include, for example, Arlington, VA; Baltimore, MD; Chicago, IL; Fairfax, VA; Montgomery County, MD; New York, NY; Prince George’s County, MD; and San Francisco, CA. These jurisdictions are utilizing a combination of federal funds, tax credits, incentives, and governmental requirements to support and increase the number of accessible taxicabs.

D. Rapidly increasing Accessible Taxi Service in the District

Revisiting existing accessible fleet percentage requirements in the DC taxi and sedan laws would help to rapidly increase the number of accessible taxis in the District. Under the DC Taxi Act, and sedan regulations, each taxi and sedan company with 20 or more taxis in its fleet is required to dedicate a portion of its fleet to wheelchair accessible taxis: at least 6 percent by December 31, 2014; at least 12 percent by December 31, 2016; and at least 20 percent by December 31, 2018. The Commission may withhold license renewals for those companies that do not meet these requirements. However, the Committee calculates that meeting these minimum requirements would only result in 3 percent of the D.C. taxi fleet being accessible by the end of 2018, and so the Committee recommends that the required minimum percentage of accessible taxis in the covered fleets be increased to 30 percent in 2016 and 40 percent in 2018.

Digital dispatch companies should be required to offer service to all potential customers in the District, including individuals with disabilities, and the minimum fleet requirements for accessible vehicles should apply to digital dispatch companies as well. Digital dispatch companies who do not currently provide accessible service are only required to redirect customers in need of such service to a digital dispatch company that can accommodate them.

Additional measures could include: continuing to explore use of accessible taxis for provision of paratransit service^{1,ii,iii}; optimizing the usage of accessible taxis by permitting them to be used more than 8 hours per day with different drivers; and creating a reciprocity agreement to expand inter-jurisdictional availability of accessible taxis in the District, Virginia, and Maryland.

E and F. Current and Potential Financial Assistance and Incentives to Offset Costs

Taxi companies and owner operators who want to purchase an accessible taxi currently have limited options. However, the Committee expects that these options will likely increase as a result of the requirements of the DC Taxi Act and similar demand in other jurisdictions.

The DC City Council's FY2014 Budget included an amendment that sets aside monies to increase the number of accessible taxis. For fiscal years 2014 and 2015 the first \$4.7 million deposited in the DCTC Fund (a fiduciary fund reliant upon taxi operator and passenger fees) is directed to be allocated to DCTC operations. Of the remaining funds, \$750,000 is set aside to increase the number of wheelchair accessible vehicles in the District. At this point it seems unlikely that the DCTC would reach the first threshold before next year.

In addition, the DC Taxi Act creates a Public Vehicles-for-Hire Consumer Service Fund. These funds may be used by the DCTC to provide grants, loans, incentives, or other financial assistance to taxicab owners to offset the cost of acquiring, maintaining, and operating accessible vehicles.

There are a variety of policy changes and incentives that the Committee believes would help support increasing the availability of accessible taxis in the District, such as:

- Allowing accessible taxis to remain in service as long as they pass inspection, rather than the usual age limits;
- Allowing accessible taxis to pick up passengers in Maryland, Virginia and the District;
- Allowing accessible taxis to go to a separate, faster line at Union Station or area airports;
- Allowing accessible taxis to be used by multiple drivers for more than 16 hours in a 24 hour period;
- Providing a tax credit for accessible taxi owners;
- Negotiating the purchase of accessible taxis at a set price, and then passing along the savings when the taxis are leased or sold to taxi owners;
- Waiving license fees for accessible taxi owners, or charging a fee for owners of non-accessible taxis;
- Creating a smartphone app for use of accessible taxi service as the District begins to increase the number of accessible taxis; and
- Using accessible taxis to provide rides to paratransit or service program-eligible passengers.

¹ Paratransit is defined in the ADA as a "comparable transportation service required by the ADA for individuals with disabilities who are unable to use fixed route transportation systems." Paratransit service must be origin-to-destination service and must be provided, at a minimum, within three-fourths of a mile on each side of a fixed route stop. Providers may negotiate pick-up times within one hour before or after the passengers' request. A fixed route system includes public buses and subways, and is defined in the ADA as "a system of transporting individuals (other than by aircraft), including the provision of designated public transportation service by public entities and the provision of transportation service by private entities, including, but not limited to, specified public transportation service, on which a vehicle is operated along a prescribed route according to a fixed schedule." The District provides paratransit service through MetroAccess.

In addition the District could utilize U.S. Department of Transportation Section 5310 funds; federal loans or loan guarantees; local budget grants; a tax credit; foundation funds and/or matches; and social impact bonds.

G. Transitioning to a Fleet of 100 Percent Accessible Taxis

The Committee recommends a long-term goal of a 100 percent accessible taxi fleet in the District. A 100 percent accessible taxi fleet allows for an inclusive, “universal design” of the system, allowing any taxi to be used by any individual – regardless of age, ability, or disability. Focusing on inclusive universal design also changes the paradigm of having to create and maintain two systems – one accessible, one not – in favor of one unified system that everyone can use.

A 100 percent accessible fleet can be achieved by working within the District’s current open entry taxi system. While the existing open entry taxi system allows for greater flexibility among drivers entering the market, additional regulations and incentives, enhanced training and public awareness, enforcement, and administrative improvements are needed. The District should:

- Require dispatch companies, sedan companies and owners that do not currently provide accessible service to help support accessible service in the District.
- In conjunction with the DCTC’s age restrictions for taxis, require all new taxis that replace taxis removed from service to meet an accessible taxi design standard (rather than requiring the purchase of a specific vehicle). The standard should incorporate existing ADA requirements regarding space and safety, and should also include vehicle requirements such as ramp location, as well as ramp or entrance height and slope requirements that are accessible for wheelchair and non-wheelchair using passengers who may require lower steps or slope.
- Utilize financing options identified (eg, Public Private Partnerships, a taxi company or dispatch-provider fee, federal matches) to purchase accessible taxis to lease or sell.
- Increase the age allowance for accessible taxis and/or allow them to remain in service for as long as they pass inspection.
- Allow accessible taxis to go to a separate, faster line at Union Station or area airports.
- Introduce a tax credit for accessible taxi owners.
- Waive license or training fees for accessible taxi owners.
- Allow accessible taxis to be used by multiple drivers for more than 16 hours in a 24-hour period.
- Provide an annual award to a taxi driver of an accessible taxi for providing outstanding service.
- Use Universal Access Funds to create an Accessible Vehicle Lottery.

In addition to the regular training curriculum, the training of DCTC drivers should include disability sensitivity, ADA 101, and operational and equipment training (use of restraints, seat belts etc. within the vehicle).

Procedures and systems, along with responsible personnel, should be put into place and tasked with monitoring compliance, providing technical assistance, and ensuring enforcement of the laws and regulations regarding the accessibility of taxicabs, and progress toward the fully accessible taxi fleet goal.

H. Plan, Feasibility, Costs, and Benefits for Requiring Aged-Out Taxis Replacement by Accessible Taxis

Between 2013 and 2017 all vehicles older than 7 years will be removed from service. The Committee recommends the city update regulations requiring that new vehicles licensed starting in 2015 meet a minimum set of accessibility standards.

Replacing aged out vehicles with accessible vehicles is a feasible model for both rapidly increasing the number of accessible taxis and achieving a 100 percent accessible fleet. The District could support the replacement process by exploring opportunities to negotiate a low price for a set number of accessible taxi vehicles and then providing the taxis for lease, or by loan guarantees, tax credits or other incentives for the purchase of new accessible taxi vehicles. Alternatively, the District could provide increased incentives for the replacement of an older taxi vehicle with an accessible model for a limited time, for example 2014-2017, and begin requiring accessible taxis in 2018.

Additional outreach to companies, associations, independent owners/drivers and the newly formed union should be undertaken as soon as possible. The DCTC or the City Council Transportation Committee should hold stakeholder meetings to generate discussion and answer questions.

Monetary costs to carry out this program are far outweighed by the foregone costs in city and local revenue and to the District's reputation. Increased taxi ridership would lead to increased taxes for those who are able to travel to work, revenue for the DCTC from the passenger surcharge, and city businesses. The city could save significant funds by allowing paratransit-certified riders to use taxis.

Achieving a 100 percent accessible taxi fleet also realizes the first and third goals of the One City Action Plan established in 2012: (1) Grow and Diversify the District Economy; and (3) Improve the Quality of Life for All. Action 3.7.4 requires the District to work towards increasing the number of accessible taxis.

Finally, the most significant benefit of establishing a 100 percent accessible taxi fleet is the acknowledgement of the worth and rights of all Americans, and that individuals with disabilities should have the same rights and privileges to live and work in, and visit our nation's capital.

This Committee looks forward to continuing to provide support to the DCTC and the DC Council's Transportation Committee to achieve the goal of a 100 percent accessible taxi fleet in the District.

ⁱⁱ National Council on Disabilities. (2005, June 13). *The Current State of Transportation for People with Disabilities in the United States*. Washington, DC: National Council on Disabilities. p. 19.

ⁱⁱ 49 CFR § 37.3 (1991)

ⁱⁱⁱ 49 CFR § 37.121-155 (1991)

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INTRODUCTION

On July 10, 2012, the District of Columbia City Council passed the DC Taxicab Service Improvement Amendment Act of 2012 (DC Taxi Act) to improve taxicab service in the District. Section 20f of the Act addresses accessibility for individuals with disabilities, and requires the DC Taxicab Commission (DCTC) to establish a Disability Taxicab Advisory Committee (the Committee) to advise the Commission on how to make taxicab service in the District more accessible for individuals with disabilities. Under the DC Taxi Act, the Committee was tasked with producing a comprehensive report and making recommendations to the Mayor and to the Council on 8 specific issues regarding accessible taxi service. Each section of the report found below can be read as a standalone chapter on the issue.

A. THE LEGAL REQUIREMENTS FOR PROVIDING ACCESSIBLE TAXICAB SERVICE

In 2012, taxis in the District of Columbia delivered an estimated 21 million² tourists, business travelers, advocates, workers, and residents to their hotels, Capitol Hill, businesses, homes, places of worship, and other destinations. People with disabilities who use motorized wheelchairs, mobility devices or service animals should be able to access this vital transportation service. In the District of Columbia, the rights of people with disabilities visiting, living, or working in the District to access taxi and sedan services are guaranteed under the landmark Americans with Disabilities Act (ADA) and subsequent regulations, the more recent D.C. Taxicab Service Improvement Amendment Act of 2012 (DC Taxi Act), and the DC Human Rights Act (DCHRA).

The ADA, passed in 1990, regulates taxis under its laws governing demand-responsive transportation, i.e., transportation that a consumer may receive on demand via a phone call, a hail, or through a web application. Under Title III of the ADA, private entities operating demand-responsive transportation (including limousines or sedans) are not required to purchase or drive wheelchair accessible, or accessible, sedan-style taxis.³ However, the ADA does stipulate that if the taxi owner purchases a new van that seats less than 8, including the driver, the van must be wheelchair accessible or the taxi operator must provide equivalent service to passengers who require wheelchair accessible service. The ADA also requires that any individual with a disability, even if they can walk or transfer from their wheelchair to their seat, must be allowed to board a wheelchair accessible taxi and may not be required to transfer to a seat. In addition to safety measures and rules regarding size, and safety equipment for wheelchair accessible vans, the ADA requires training for taxi employees on how to provide service to people with disabilities, accessible communication materials, and provision of service without discrimination.

The recently-passed DC Taxi Act requires an increasing percentage of vehicles owned by larger taxi fleets to be wheelchair accessible in the coming years. In addition, the DC Taxi Act provides new regulations for taxi employee training, responding to street hails from people with disabilities, and dispatch service. It also requires the DC Taxi Commission (DCTC) to seek to partner with WMATA, the DC Office of the State Superintendent of Education, and any other governmental entity to provide accessible services using taxicabs. The DCTC is required to report to the Council within 18 months of the DC Taxi Act on the status of agreements and the estimated cost savings. The Disability Advisory Committee (the Committee) is tasked primarily with exploring and recommending: a timetable and plan to rapidly increase the number of accessible taxicabs to

² The DC Taxi Commission (DCTC) has calculated an estimated 21 million total rides in DC based on market research. However, within 3 to 6 months of installing the new Modern Taximeter System DCTC expects to obtain data that should allow more in depth knowledge of DC taxi service.

³ In this report, we frequently use the term “accessible” and “accessible taxi(s)” rather than “wheelchair accessible taxis” or a variation thereof. In doing so, we presume that all accessible taxis are wheelchair accessible, and also mean to imply that such taxis can and should be used by other members of the public.

meet the need; financing options for operators, associations or companies; and the means by which the District can achieve a fleet of 100 percent wheelchair accessible taxicabs.

The DCHRA prohibits discrimination on the basis of 19 classes, including disability. Not providing full access to every publicly-regulated transportation option to people in the District may violate the DCHRA. The District has been a leader in addressing inequality and discrimination amongst DC's diverse communities. The intent of the Council in passing the DCHRA was to "secure an end in the District of Columbia to discrimination for any reason other than that of individual merit, including ... discrimination by reason of ... disability." D.C. Code § 2-1401.01. Regarding public accommodations, the DCHRA prohibits any individual to "deny, directly or indirectly, any person the full and equal enjoyment of the goods, services, facilities privileges, advantages and accommodations of any place of public accommodations." Taxi companies are considered public accommodations under the DCHRA. *Mitchell v. DCX, Inc.*, 274 F.Supp.2d 33, 48 (D.D.C. 2003).

Following are more detailed descriptions of the legal requirements for providing accessible taxi service. Unless otherwise stated, requirements fall under the ADA. Initial work on this section began with a close reading of the Easter Seals Project ACTION and Taxicab, Limousine & Paratransit Association (TLPA) document, *The Americans with Disabilities Act and You: Frequently Asked Questions on Taxicab Service* (2007).^{iv} We acknowledge the efforts of Easter Seals and the TLPA, and credit them for providing a foundation for what follows. Full text of the relevant Code of Federal Regulations sections, the Accessibility Section of the DC Taxicab Act, and the DC Human Rights Act are provided in Appendices A.1, A.2 and A.3.

I. The ADA and Taxis

Providers of taxi service (whether an individual taxi owner or taxi company with a fleet) must comply with ADA requirements as private entities primarily engaged in the business of transporting people that provide demand-responsive transportation.^v With demand-responsive service, the customer is provided transportation along a non-prescribed route.^{vi,vii} Limousine and sedan services are also consider demand-responsive and must comply with ADA requirements. While the ADA does not require taxi companies operating sedan-style taxis to be wheelchair accessible, there is a wheelchair accessible requirement for vans. There are also a number of important accessibility and non-discrimination measures that taxi companies must adhere to; including training, providing accessible communication and service. These additional requirements are described below.

II. Federal Laws & Opinions Requiring Purchase & Operation of Wheelchair Accessible Taxis

A. The ADA

Under the ADA, a taxi company is not required to purchase wheelchair accessible vehicles when purchasing new sedan-style taxis, and is not required to have a certain number of accessible vehicles in its fleet.^{viii}

However, if a taxi company purchases or leases a van with a seating capacity of fewer than eight persons (including the driver), the vehicle must be wheelchair accessible, unless the company is providing "equivalent service".^{ix} The Americans with Disabilities Act does not define what is classified as a "van," nor do the implementing regulations.

B. Equivalent Service Requirements under the ADA

Equivalent service, according to 49 CFR § 37.105 (1991), "is provided [to individuals with disabilities] in the most integrated setting appropriate to the needs of the individual and is equivalent to the service provided other individuals with respect to the following service characteristics:

- (a) (1) Schedules/headways (if the system is fixed route);
- (2) Response time (if the system is demand responsive);
- (b) Fares;

- (c) Geographic area of service;
- (d) Hours and days of service;
- (e) Availability of information;
- (f) Reservations capability (if the system is demand responsive);
- (g) Any constraints on capacity or service availability;
- (h) Restrictions priorities based on trip purpose (if the system is demand responsive)."

An equivalent taxi service would arrive in the same amount of time, charge the same rate, and could be reserved in the same ways (over the phone, via an app, etc). The ADA allows contracting with other companies to provide equivalent service. Publicly operated accessible buses and paratransit^{4,x,xi} do not suffice as an equivalent service for taxis. If taxi operators purchase new vans that are not accessible to people with disabilities, they must provide "equivalent service."

C. New York City Taxi and Department of Justice (DOJ) Opinion on Wheelchair Accessible Service

In October 2011, the DOJ filed a statement of interest in support of a January 2011 lawsuit filed against the New York City Taxi and Limousine Commission (TLC).^{xii} The DOJ claimed that every taxi in NYC should be accessible because the TLC, a city agency, set fares, cited vehicle types, set qualifications for drivers, and sold medallions so that the city was "operating" a demand responsive system. A public entity operating a demand-responsive system would fall under ADA Title II regulations as public transportation operated by a public entity required to provide wheelchair accessible service.^{xiii} The US Southern District of NY disagreed with the DOJ's claim that the TLC was in violation of Title II subtitle B, but did find that the TLC was violating Title II, subtitle A's prohibition against discrimination. The Judge's ruling required the TLC to provide meaningful access. The TLC appealed, and the US Court of Appeals for the Second Circuit reversed the decision, sending the case back to the Southern District.⁵

III. DC Law Requiring Purchase & Operation of Wheelchair Accessible Taxis

The recent DC Taxi Act seeks to modernize DC's taxi fleet through regulations. The Americans with Disabilities Act explicitly states that it "should not be construed to invalidate or limit the remedies, rights and procedures of any ... law of any State or political subdivision of any State or jurisdiction that provides greater or equal protection for the rights of individuals with disabilities than are afforded" by the ADA. 42 U.S.C. § 12201(b). Therefore, the District of Columbia may provide additional protections for people with disabilities relating to taxicabs, and has done so through the DC Taxi Act and the DCHRA.

⁴ Paratransit is defined in the ADA as a "comparable transportation service required by the ADA for individuals with disabilities who are unable to use fixed route transportation systems." Paratransit service must be origin-to-destination service and must be provided, at a minimum, within three-fourths of a mile on each side of a fixed route stop. Providers may negotiate pick-up times within one hour before or after the passengers' request. A fixed route system includes public buses and subways, and is defined in the ADA as "a system of transporting individuals (other than by aircraft), including the provision of designated public transportation service by public entities and the provision of transportation service by private entities, including, but not limited to, specified public transportation service, on which a vehicle is operated along a prescribed route according to a fixed schedule." The District provides paratransit service through MetroAccess.

⁵ In early April, 2013, advocates successfully amended the lawsuit, adding a new claim that taxis like the TLC-designed Taxi of Tomorrow, the Nissan MV-200 are vans and have to be accessible pursuant to US DOT's ADA regulations. This case is currently on remand before the United States District Court of the Southern District of New York. In December 2013, the TLC and disability advocate plaintiffs settled the January 2011 lawsuit. The TLC announced its intention to achieve a 50 percent accessible taxi fleet by 2020. The TLC will require that at least 50 percent of all new vehicles put into service during the regular replacement schedule will be accessible until 50 percent of the entire fleet is accessible. In June 2013, the New York Court of Appeals reinstated the HAIL Act, which put in place a New York City plan to expand street-hail taxi service to the outer boroughs and auction off 2,000 medallions for wheelchair accessible yellow cabs.

A. DC Taxi Act

Under the DC Taxi Act, each taxi company with 20 or more taxicabs in its fleet as of July 1, 2012, will be required to dedicate a portion of its fleet to wheelchair accessible taxis: 6 percent by December 31, 2014; 12 percent by December 31, 2016; and 20 percent by December 31, 2018. The Commission may withhold license renewals for those companies that do not comply.^{xiv} Current DC (and federal) law does not provide a defense that would allow covered companies to avoid this requirement

A taxi company is defined as “any person, partnership, or corporation engaging in the business of owning and operating a fleet or fleets of taxicabs having a uniform logo or insignia. A company must have a minimum of 20 taxicabs having a uniform logo or insignia and having unified control by ownership or by the company.”

The DC taxi industry is comprised of a few larger companies, associations of owners, and many individual independent owner-operators. Independent owner-operators may affiliate with a company for services, such as dispatch, or the use of a company’s logo or insignia. A company may have difficulty requiring upgrades to vehicles of independent owner-operators who merely affiliate with the company. An amendment to the DC Taxi Act, introduced by Councilmember Cheh and adopted by the Council, amended certain requirements for accessibility. In the Explanation and Rationale section of the adopted amendment, the purpose of the amendment, in part, was to clarify that “the requirement for taxicab fleets to increase the number of wheelchair accessible vehicles applies only to fleets owned by companies, not taxicabs owned by individual drivers, even if they are associated with a company.”

In addition, the DC Taxi Act amended the Regulation of Taxicabs purposes to include, “provi(sion of) specific policies and programs to increase wheelchair accessible taxicab service to the disabled throughout the District.”

B. DC Human Rights Act

The DCHRA prohibits discrimination on the basis of 19 classes, including disability.^{xv} Not providing full access to every publicly-regulated transportation option to people in the District may violate the DCHRA. The District has been a leader in addressing inequality and discrimination amongst DC’s diverse communities.⁶ The intent of the Council in passing the DCHRA was to “secure an end in the District of Columbia to discrimination for any reason other than that of individual merit, including...discrimination by reason of...disability.” D.C. Code § 2-1401.01. Regarding public accommodations, the DCHRA prohibits any individual to “deny, directly or indirectly, any person the full and equal enjoyment of the goods, services, facilities privileges, advantages and accommodations of any place of public accommodations.” Taxi companies are considered public accommodations under the DCHRA. *Mitchell v. DCX, Inc.*, 274 F.Supp.2d 33, 48 (D.D.C. 2003).

IV. Accessible Taxi Service

Accessible taxi service is a broad concept that may refer to a taxi that is: accessible to wheelchairs and mobility devices via a ramp; offers accessible payments systems; provides hearing loops for people with hearing loss; provides accessible materials; accommodations for additional equipment or service animals; as well as service without discrimination. There are a number of provisions under the ADA and the DC Taxi Act which ensure accessibility without discrimination.

A. Service without Discrimination

Under the ADA, taxi companies and drivers may not discriminate against people with disabilities.^{xvi} Examples of discriminatory service include:

⁶ See “D.C. Launches Campaign To Fight Transgender Discrimination,” by Patrick Madden, aired on WAMU 88.5, September 13, 2012, accessed at http://wamu.org/news/12/09/13/dc_launches_campaign_to_fight_transgender_discrimination

- Denying service to people with disabilities
- Charging higher fees or fares to people with disabilities
- Denying a ride to a potential passenger with a service animal
- Refusing to help with stowing wheelchairs or other mobility devices

The DCHRA, found in the DC Code Title 4, Chapter 7, and the DCTC anti-discrimination policy, DC Code Title 31, Chapter 5, prohibit discrimination based on disability (among 18 other classes). Taxi service is considered a public accommodation under the DC Human Rights Act. Discrimination under the DC Taxi code includes, but is not limited to: not picking up a passenger based on a trait; requesting that a passenger get out of the cab based on a trait; using derogatory or harassing language; refusing to pick up a passenger who uses a service or comfort animal; and charging higher fees or fares. Passengers who are discriminated against may file a complaint with the U.S. Department of Justice, Civil Rights Division, Disability Rights Section; the DC Office of Human Rights (OHR), and the DCTC.

B. Passenger Use of Wheelchair Accessible Taxis

If a taxi company or driver is using a wheelchair accessible cab, the taxi company or driver must allow “individuals with disabilities who do not use wheelchairs, including standees, to use a vehicle’s lift or ramp to enter the vehicle,” unless the lift is a Model 141 manufactured by EEC, Inc. If the taxi company chooses not to allow such individuals to use a lift Model 141 manufactured by EEC, Inc., they must notify customers with a sign on the outside of the taxi.^{xvii} A taxi operator or driver may recommend, but may *not* require, that a wheelchair user transfer to a seat.^{xviii}

C. Accessible Communication

Under the ADA, taxi companies must make communication concerning transportation services “available, through accessible formats and technology, to enable users to obtain information and schedule service.”^{xix} Accessible communication would include dispatching that is accessible to deaf callers and accessible to blind web-users if reservations are made online or via a smart phone app.

D. Training Requirements

Taxi companies must ensure that personnel are trained to proficiency. All personnel, including both drivers and dispatchers, must be trained as appropriate to their duties. Personnel must be able to operate the vehicle and equipment safely, and must treat people “in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.”^{xx}

The DC Taxi Act requires that all DC drivers who operate wheelchair accessible taxicabs receive training in how to properly use the equipment and work with disabled passengers. The training will be coordinated through the Commission or taxicab companies.^{xxi}

E. Street Hails and Priority for Wheelchair Users

Under the DC Taxi Act, every taxi driver (including those driving a taxi that is not accessible to wheelchair users) not transporting a fare or responding to a call is required to: stop and ask a passenger in a wheelchair or mobility device who is attempting to street hail if they would like to ride in their taxi, or, contact their dispatch service and request a wheelchair accessible taxi if they are affiliated with a company that provides that service. Every licensed taxicab operator accepting fares and once dispatched to a call from a passenger using a wheelchair may not accept any other fare while traveling to the fare.^{xxii}

If a person with a disability believes a taxi driver has violated these requirements under the DC Taxi Act, they may file a complaint with the DC OHR or the DCTC.

F. Dispatch Service for Wheelchair Accessible Taxis

Under the DC Taxi Act, Section 20f(h), any individual or company that owns, leases, rents, or operates wheelchair accessible taxicabs subsidized by the District must:

- Operate wheelchair-accessible taxicabs equipped with dispatch technology and maintain the capacity to communicate with every wheelchair-accessible taxi operating under its service;
- Grant priority to requests from passengers who use wheelchairs, and once dispatched to a call from a passenger using a wheelchair, shall not accept any other fare while travelling to the fare; provided, that in the absence of a request for service to a passenger who uses a wheelchair, a wheelchair-accessible taxicab operator may transport any person;
- Promptly dispatch a wheelchair-accessible taxicab in response to a wheelchair-accessible taxicab service request. If a wheelchair-accessible vehicle cannot be dispatched within 20 minutes, dispatch must call another company with wheelchair-accessible vehicles to handle the request, and contact the customer with the name and telephone number of the dispatch service for the available wheelchair-accessible taxicab. If no wheelchair-accessible taxicabs are currently available to respond to a customer's request, dispatch shall notify the customer and record the customer's name and phone number and the names of the other dispatch services contacted; and
- Record all requests for wheelchair-accessible taxi service, noting the date and time of the request for service, the service address, the vehicle number dispatched, and the time that the wheelchair-accessible taxicab was dispatched to respond to the call.

V. Financing & Partnering Requirements

A. Financing Wheelchair Accessible Taxis

The DC Taxi Act requires the DCTC, along with the Committee (which includes the District's Office of the Chief Financial Officer), to develop a program to provide grants, loans, and other types of financial assistance and incentives to applicants and owners of licensed taxicabs to offset the cost of buying, retrofitting, maintaining, and operating a vehicle for use as a wheelchair accessible taxicab.^{xxiii}

The DC Taxi Act creates a Public Vehicles-for-Hire Consumer Service Fund. The fund consists of a passenger surcharge, a Commission license fee, and funds from the Department of Motor Vehicles' Out-Of-State Vehicle Registration Special Fund. The funds may be used by the Commission to provide grants, loans, incentives, or other financial assistance to taxicab owners to offset the cost of acquiring, maintaining, and operating wheelchair accessible vehicles. The funds may also be used to provide a taxicab fare discount for low-income senior citizens aged 65 years and older and persons with disabilities.

B. Wheelchair Accessible Taxis for Paratransit & Education-Related Transportation

The DC Taxi Act requires the Commission to seek to partner with the Washington Metropolitan Area Transit Authority, the Office of the State Superintendent of Education, and any other governmental entity to provide accessible transportation services using taxicabs. The Commission is required to report to the Council within 18 months of the Amendment Act on the status of agreements and the estimated cost savings of utilizing taxis in addition to traditional paratransit modes of transportation.^{xxiv}

VI. Wheelchair Accessible Vehicle Requirements

A. Wheelchair Accessible Taxis Defined

Under the DC Taxi Act, wheelchair accessible taxis must (1) accommodate wheelchair and personal mobility devices up to 30 inches in width; (2) Have rear-entry or side-entry ramps or lifts; (3) Have safety devices to secure the wheelchair or personal mobility device to the vehicle and protect the passenger; and (4) Display the

international wheelchair insignia (ie, the International Symbol of Access) or other insignia approved by the Commission in at least 2 prominent locations on the outside of the vehicle.^{xxv}

B. Space, Size, Securement & Lift Requirements for Accessible Vehicles

The Department of Transportation's ADA regulations provide detailed specifications for transportation vehicles required to be accessible by the ADA under part 37, including vans used by taxi companies. Select specifications are below.

For vehicles (such as vans used as taxis) of 22 feet in length or less, the overhead clearance between the top of the door opening and the raised lift platform, or highest point of a ramp, shall be a minimum of 56 inches.^{xxvi} For reference, common taxicabs including the Ford Crown Victoria, Dodge Caravan and MV1 are roughly 17-18 feet.^{xxvii,xxviii,xxix}

Vans 22 feet in length or less are required to have at least one securement location and device, complying with paragraph (d) of the section.^{xxx} A seatbelt and shoulder harness are also required and may "not be used in lieu of a device which secures the wheelchair or mobility aid itself."^{xxxi}

A company's policy must require drivers to assist people with disabilities with the use of securement systems, ramps and lifts, when necessary or upon request. If it is necessary for the driver to leave her seat to provide the required assistance, she should do so.^{xxxii}

Wheelchair and mobility aid users may board facing either inboard or outboard.^{xxxiii} Taxi drivers must allow persons using walkers, crutches, canes or braces or who otherwise have difficulty using steps to board via the lift.^{xxxiv}

B. THE NEED FOR ACCESSIBLE TAXICAB SERVICE IN THE DISTRICT

According to a National Council on Disability (NCD) report,⁷ "Taxicabs are a significant form of transportation used by people with disabilities. Many disabled individuals who cannot drive, or who cannot afford their own cars, make extensive use of taxis. Some advantages of taxi travel, as seen by many people with disabilities, are that taxis are generally available 24 hours a day, they generally do not need to be scheduled far in advance, and they closely resemble travel in a private vehicle. Service is direct, without detours to serve other passengers, as is often the case with paratransit service."^{xxxv}

Taxi service can be crucial when the Metro is not functioning or when an elevator is broken. Taxis are a convenient service when travelling with luggage or bulky items, and are vital when there is an emergency. Taxis can be called on during local emergencies due to weather or other crisis, but are also frequently used for personal emergencies.

I. People with Disabilities Need Increased Accessible Taxi Service

According to the NCD, "A national study conducted by the U.S. Bureau of Transportation Statistics in 2002 found that 6 million people with disabilities have difficulties obtaining the transportation they need. Four

⁷ According to the NCD website, "NCD is an independent federal agency charged with advising the President, Congress, and other federal agencies regarding policies, programs, practices, and procedures that affect people with disabilities. NCD is comprised of a team of fifteen Presidential appointees, an Executive Director appointed by the Chairman, and eleven, full-time professional staff." (see <http://www.ncd.gov/about>)

times as many disabled people as nondisabled people lack suitable transportation options to meet their daily mobility needs.”^{xxxvi}

A. The Need for Increased Wheelchair Accessible Taxi Service

There are efforts across the country by local advocates, city agencies and regional transportation agencies to increase the number of accessible taxis (See Section C of this report: *Accessible Taxi Service in Other Jurisdictions*). rollDC, a pilot program kick-started by the National Capital Region Transportation Planning Board (TPB), and administered by the Metropolitan Washington Council of Governments (MWCOC), has provided limited, though high-quality wheelchair accessible taxi service in DC since 2010. Data from the pilot program will be reviewed on pages 9-11 of this report.

Accessible taxis are essential for people who use motorized wheelchairs or mobility devices, but can be essential for others as well. For many manual wheelchair users, or individuals using other mobility devices, standard taxis may be an option, but transferring to a taxi seat can be cumbersome or even dangerous, leading to greater strain on the body and increased health concerns. Assisting passengers with stowage of wheelchairs and other mobility devices in taxis can also be potentially dangerous to taxi drivers who are older or who have health concerns. As the nation’s elderly population continues to grow, the need for safe taxi options will continue to increase.

Currently, only 20 out of the approximately 7,000 taxicabs⁸ that are currently running on a regular basis are fully accessible to wheelchair users and other individuals with mobility disabilities who live, work, and travel in and around Washington, DC. Based on the estimated number of cabs running regularly, 0.3 percent are accessible. The District’s residents, workers, and visitors who require or would benefit from wheelchair accessible taxis have very limited access to taxi service available to all other residents and visitors across DC.

DC’s MetroAccess is a government subsidized program which, according to its website, is “a shared-ride, door-to-door, paratransit service for people whose disability prevents them from using bus or rail.”^{xxxvii} As such, it is not an equivalent service to taxis as MetroAccess utilizes a shared-ride model and requires a minimum of 24 hour advanced booking.

In addition, while paratransit can be used by District residents, it generally is not available for use by visitors unless they already receive qualified paratransit services in a reciprocal city. Moreover, MetroAccess is not a practical service for individuals who come to the District to conduct business, since paratransit rides need to be scheduled far in advance, are not easy to change, and are very limited in availability. The lack of wheelchair accessible taxis can lead people with disabilities to rely on less convenient paratransit systems such as MetroAccess.

Finally, we note that the DCTC Chairman has expressed his support for increased taxi accessibility. In a September 24, 2012 DC Council Committee on the Environment, Public Works and Transportation hearing, Chairman Linton stated, “I personally believe that all taxicabs licensed by the commission for the purpose of street hails should be wheelchair accessible, but it is critical for the commission to develop as rapidly as feasible a rational means of meeting this objective.”^{xxxviii} A video of the hearing is available on the DC Council’s website in the DC Council Hearings Archive.

B. The Need for Increased Access to Taxi service for All People with Disabilities

The limited numbers of wheelchair accessible taxis remain a concrete barrier to taxi service for many people with disabilities who use motorized mobility devices or have difficulty transferring. Getting existing taxis, wheelchair accessible and sedan, to stop for people with disabilities who are hailing is an additional barrier to service.

⁸ Total taxicab figures provided by DCTC, November 27, 2013.

In a recent May 2013 W*USA 9 story, investigative reporter Russ Ptacek tested taxi drivers' reactions to people who use service dogs and manual wheelchairs.^{xxxix} Ptacek found that many drivers did not stop and offer service to these individuals attempting to hail a cab on the street. Though Ptacek's survey was not scientific, Ptacek does refer to a 2010 Equal Rights Center (ERC) report on discrimination by DC taxi drivers against people who use service dogs. According to the report, a blind tester was discriminated against in 60 percent of tests conducted by the ERC.^{xi}

As noted in Section A of this report (*Legal Requirements for Accessible Taxi Service*), the recently passed DC Taxi Act requires all DC taxi drivers who are not already providing service, or on their way to a fare, to stop for a person with a disability who is hailing. The driver is required to ask if the potential passenger would like a ride. If the passenger needs a wheelchair accessible taxi and the driver's company participates in rollDC, the driver must call the dispatch service. The ADA and the DCHRA also require drivers to stop for all passengers with disabilities.

According to some members of the Committee representing the taxi industry, there is a lack of knowledge amongst DC cab drivers regarding the legal obligation to pick up passengers. ADA compliance is not thoroughly covered in the DC taxi driver training curriculum. Additional training on ADA compliance and passenger sensitivity is ongoing for new drivers and could create greater access to taxis.

DC is not alone. The NCD reports, "problems of discrimination in taxi service [across the country] continue to be reported. People with disabilities who use service animals, particularly people with visual impairments, face a variety of problems using taxis. And in some cities, individuals with a variety of disabilities—wheelchair users, users of crutches, and blind people, among others—are often passed up by taxicabs."^{xli}

Access to transportation is a civil and human right that is unattainable to many. What follows is a quantitative review of wheelchair accessible taxi service provided in DC to date, as well as benefits of increased accessible taxi service.

II. Accessible Taxi Service in the District

The District of Columbia remains a fast-growing metropolitan area with a large influx of domestic and international tourists, all in need of transportation services. While most of the fixed rail and route transportation system is wheelchair accessible, some areas of the District remain difficult to access with public transportation.^{9,xliii} Direct transportation service without multiple stops or advanced reservations is a necessity for personal and business use, both for people with disabilities and those without, making the District's taxis an essential piece of the transportation network.

Millions of residents and visitors with disabilities use transportation in the District each year. Many of the District's residents and workers use accessible transportation for crucial purposes such as work, school or healthcare. Of the District's estimated 608,165 non-institutionalized residents, 67,435 (11.1 percent) have a disability, according to the 2011 American Community Survey (ACS).^{10,xliii,xliv} Other estimates are significantly higher. The DC Office of Disability Rights estimates that 20 percent of the District's population has a

⁹ A 2009 Washington Metropolitan Area Transit Authority (WMATA) and the District Department of Transportation report identified isolated neighborhoods and current and predicted gaps in service. Population and employment growth, accessibility (ie, proximity of business and residents to transit stops or stations), average travel speeds (ie, time for a transit trip), and number of transfers contribute to isolation and gaps. The report identified 16 areas with transit accessibility issues because they are farther than one-eighth of a mile (the standard for persons with disabilities) from businesses or residences.

¹⁰ The ACS defines the institutionalized population as "persons residing in institutional group quarters such as adult correctional facilities, juvenile facilities, skilled-nursing facilities, and other institutional facilities such as mental (psychiatric) hospitals and in-patient hospice facilities."

disability,¹¹ or approximately 129,654 individuals.^{xlv} An estimated 2.1 million of the District's 17.9 million tourists are visitors with disabilities,¹² making the influx of visitors for conferences and sightseeing an important consideration.^{xlvi} Being an international city, it's important to consider the needs and perceptions of international visitors who assist the economy with trips for business, tourism and government affairs.

Significantly, 21 percent of trips made by wheelchair users in wheelchair accessible cabs are work or school related, and 35 percent health related.^{xlvii} Yet this likely understates the degree to which District residents with wheelchairs rely on taxis for crucial purposes such as work, school or healthcare, given 35 percent of all wheelchair users in accessible taxis are visitors not from the DC metropolitan area. Because such visitors are less likely to be using taxis for these crucial purposes, the percentage of trips by District residents in wheelchairs for crucial purposes is likely much higher than the aforementioned 56 percent.^{xlviii}

While taxi service is an important mode of transit for people with disabilities in the District, an analysis of five municipalities¹³ for which accessible taxi and ACS data is available shows the District has an extremely small percentage of accessible taxis compared to other jurisdictions.^{14,xlix,l} One-third of one percent of District taxis (20 total) are accessible, compared to nine-tenths of one percent in Baltimore, 1.8 percent in New York City, 2.6 percent in Chicago, 4.9 percent in Arlington, and 6.8 percent in San Francisco.^{lii} The District's disproportionately small number of wheelchair accessible taxis is unrelated to its population, as the percentage of people with disabilities in the District is the same or larger than any of the five municipalities, with the exception of Baltimore (Table B.1).

Table B.1: Accessible Taxis and Population with Disability by Municipality^{liii}

	Population	Total Taxis	# of Accessible Taxis	% of Accessible Taxis	% of Population w/ Disability ^{15,liiv}	% with Ambulatory Disability*	% with Vision Difficulty**
District of Columbia	608,165	6,500	20	0.3%	11.1%	6.1%	2.4%
Arlington CDP, VA	212,598	757	37	4.9%	5.2%	2.8%	1.2%
Baltimore	610,804	1,074	10	0.9%	15.6%	9.0%	3.4%
Chicago	2,684,882	6,722	172	2.6%	11.1%	6.4%	0.6%
New York City	8,180,575	13,237	233	1.8%	10.3%	6.2%	2.0%
San Francisco	807,662	1,477	100	6.8%	10.4%	5.8%	2.1%

¹¹ Estimation includes people with HIV/AIDS, diabetes and cancer.

¹² Estimation assumes the number of visitors with disabilities reflects the overall US population with disabilities, using American Community Survey data from 2011.

¹³ The five municipalities are Arlington, VA; Baltimore, MD; Chicago, IL; New York, NY; and San Francisco, CA

¹⁴ Note that there are considerable differences between DC's taxi industry and industries in other cities. According to a 2007 report, *Entry Controls in Taxi Regulation*, the District's taxi industry is unique among larger cities in the U.S. DC has no limits on the numbers of taxis that can run, and open entry for new companies or drivers. Other major cities which are listed in Table A, like New York City and Chicago, are closed entry, require the purchase of a medallion or permit which can be expensive and difficult to obtain.

In addition, in larger cities like New York, a single taxi may be on the road continuously. According to a 2006 report, *The New York City Taxicab Fact Book*, "Four in ten owner-drivers lease their cabs to other driver(s) for a second shift." In the case of companies who lease long-term "Typically, the cab [leased from a company to a driver long-term] is leased to two drivers who arrange to pass the vehicle back and forth at the end of each 12-hour shift." (p. 31). However, under DC Regulations (Title 31, 822-12), a taxicab may not be operated for more than 16 hours in a 24 hour period. In addition, a taxi driver may not drive more than 12 hours at a time in a 24 hour period, unless the driving time is broken by a period of eight hours of continuous rest. According to taxi industry representatives on the Committee, including representatives from the two largest companies in the District: companies rent to one driver on a weekly basis, the driver sets their own work schedule, and are not allowed to sub-rent the vehicle; and independent owner/operators, who comprise a majority of the taxi industry in the District, drive their own vehicles, set their own work schedule, and do not sub-rent their vehicles. DC taxi regulation and industry practices make it extremely likely that less than 20 accessible cabs are operating at any given time.

¹⁵ The ACS defines disability as "A long-lasting physical, mental, or emotional condition. This condition can make it difficult for a person to do activities such as walking, climbing stairs, dressing, bathing, learning, or remembering. This condition can also impede a person from being able to go outside the home alone or to work at a job or business."

**Ambulatory Disability is based on the ACS survey question: “Does this person have serious difficulty walking or climbing stairs?”*

***Vision Difficulty is described as “blind or having serious difficulty seeing, even when wearing glasses.”*

The relatively small number of accessible taxis on District streets is reflected in the difficulty of hailing an accessible taxi for on-demand transportation. An average 3.6 percent of wheelchair user trips originated from a street hail between February 2010 and October 2012, according to rollDC data (Appendix B.1).^{lv} This number is a likely indicator of the confidence wheelchair users have in successfully hailing an accessible taxi in a reasonable amount of time. An average 86.8 percent of wheelchair user trips originated from dispatch during that same time period.^{lvi} Although average wait times for trips requested as soon as possible (ASAP) dispatch trips fluctuated tremendously – from as short a wait as one minute to as long as 1.5 hours or more – the average wait time per month¹⁶ for an accessible cab from dispatch was 27 minutes (Appendix B.2).^{lvii} Nearly all pre-booked trips arrived to pick up the passenger with wheelchair either on-time or early.^{lviii}

Yet the ASAP wait time persists even though the number of accessible taxis nearly doubling – from 11 to 20 – between February 2010 and October 2012. During this period, wheelchair accessible taxis have been increasingly utilized by passengers with wheelchairs (Appendix C.3). About 3.9 percent of wheelchair accessible taxi trips were for passengers with wheelchairs in 2010 (approximately 354 average trips per month), growing to 6.2 percent in 2011 and 7.8 percent in 2012 (approximately 452 average trips per month).^{lix} Advocates believe the increased use of accessible taxis by passengers with wheelchairs is a reflection of growing awareness about their availability, and that additional awareness efforts and opportunities for on-demand service such as hailing will increase these numbers further.

III. Benefits of Increased Access to Taxi Service

Increased access to taxis could allow Washington, DC residents and visitors with disabilities to travel to medical appointments and spend time with friends, as well as engage more fully in: work; recreation; religious communities; education; and other components of a full life that many take for granted. For example, the wheelchair accessible taxi used in rollDC allows passengers who use mobility equipment to travel with coworkers, family members, and friends who do not require a ramped vehicle.

Future universally designed (that is, taxis designed for use by any passenger) wheelchair accessible taxis that are low to the ground could offer increased space in the main passenger compartment that would allow many benefits. These benefits could include: allowing more than one person who uses a wheelchair and does not transfer to travel at a time; greater leg space for all passengers; and the ability for parents with strollers or passengers with other mobility devices such as canes, or walkers, to travel with their equipment without having to store it in the trunk.¹⁷ Future taxi manufacturers may also find a way to provide the necessary space to accommodate any passenger while conserving energy, lessening the impact on the environment.

Increased numbers of accessible taxis could also benefit the taxi industry. There is potential for increased profit and ridership, the ability to service more riders, and create more jobs. Please note; however, that while industry representatives on the Committee support increased numbers of wheelchair accessible taxis and access to services, there are Committee concerns. Funding will be required for wheelchair accessible vehicle costs, start-up costs, and potential needs for ongoing operating costs. In addition, training will be required,

¹⁶ Royal Cab’s average wait time per month is 31 minutes, while Yellow Cab’s is 22 minutes.

¹⁷ According to the Ron Mace, founder of the North Carolina State University Center for Universal Design “Universal design is the design of products and environments to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design.” (Retrieved from http://www.ncsu.edu/www/ncsu/design/sod5/cud/about_us/usronmace.htm) Dropped sidewalk curbs, a standard used around the world to make sidewalks accessible for all, and closed captioning initially provided for persons who are deaf or hard of hearing and now used in bars and airports, are two examples of accommodations created for people with disabilities, now used by all.

and enforcement will be necessary. The Committee will address funding, training and enforcement needs in later sections of this report.

The Committee also believes that a significant increase in accessible taxi service could have a measurable, beneficial impact on the city as a whole. A larger fleet of accessible taxis would increase transportation options for individuals with disabilities, particularly those with mobility impairments, and would be an incentive to encourage people with disabilities (and their families) to visit, hold conventions and conferences in Washington, DC, increasing revenue for the hospitality, restaurants, other businesses and the city.

C. HOW OTHER JURISDICTIONS ARE PROVIDING ACCESSIBLE TAXI SERVICE

Many jurisdictions throughout the U.S. are utilizing a combination of federal funds, tax credits, incentives, and governmental requirements to increase the number of accessible taxis. Cities are also supplementing rides for people with disabilities through the use of paratransit and contract transportation service providers. Following are brief descriptions and highlights of accessible taxi programs in other jurisdictions.

Table C: City and States Assessed

City & State	Population	Accessible Taxi Service Began	Number of Taxis	Number of Accessible Taxis
Arlington, VA	221,045	1996	757	37
Baltimore, MD	621,342	Unavailable	1074	10
Chicago, IL	2,707,120	2000	6,722	141
Fairfax Co, VA	1,118,602	Unavailable	Unavailable	Unavailable
Montgomery Co., MD	989,794	Unavailable	770	48
New York, NY	8,244,910	2012	13,237	233
P. G. County, MD	881,138	2012	1,075	7
San Francisco, CA	825,863	1994	1,477	100
Washington D.C.	632,323	2010	6,500	20

Source: Population Count U.S. Census Bureau 2011/2012 and city and county taxicab regulations' departments

Accessible Taxicab Service Program Structures

Washington, D.C.: In February 2010 Washington launched its first wheelchair accessible taxi service—*roIIDC* as a pilot program. The program is funded through the TPB and participating taxicab companies. *roIIDC*'s full service includes a fleet of 20 accessible taxicabs, provided by Royal Cab and the Yellow Cab Company of D.C.

The curb-to-curb service is provided to people with disabilities using wheelchairs and other mobility devices. Program highlights include:

- An open (non-medallion) system
- Dispatch service
- Pay normal metered fare
- ADA-compliant and disability sensitivity training required
- Trips may be reserved up to a week in advance
- Vehicle accommodates up to 4 other passengers
- Street hail
- Rear entry
- **Frequency of use:** Since the program was launched, the demand for wheelchair accessible taxi service has grown steadily since 2010; the number of monthly wheelchair trips more than tripled between August 2010 and August 2012. While there has been a dramatic growth in usage, the percentage of wheelchair trips compared to total trips remain relatively low at an average of 5.4 percent of trips being taken by passengers using wheelchairs from February 2010-October 2012.^{lx}
- **Driver incentives:** Drivers who opt to participate in the program drive a Toyota Sienna at a subsidized rate.
- **Additional information:** According to survey findings, customer satisfaction of the service has been very high with 85 percent of customers rating the service as excellent and only one percent rating the service as poor. Washington D.C. was the only major city researched that operates on an open system.^{lxi}

Arlington, VA: Accessible taxicabs are available for on-demand point-to-point service in Arlington for people who use wheelchairs, scooters and other mobility devices. Passengers are encouraged to call ahead whenever possible to request a wheelchair accessible taxi. Program highlights include:

- Twenty-four hours/seven-day per week service
- Request may be made up to two weeks in advance
- Normal metered fare
- Discount up to 10 percent for seniors and persons with disabilities

Baltimore, MD: On December 18, 2012, the Public Service Commission in Baltimore that regulates taxi service, proposed that "...permit holders in Baltimore City and Baltimore County that if within six months of its order there are not 25 wheelchair accessible cab (WACs) in the City and five (5) in the County, the Commission will conduct a lottery for permit to bridge the remaining deficiency. The recommended levels include those already in service, which are around nine (9) WACs in the City and none in the County. These additional permits will be restricted to wheelchair [WAVs], while providing service to all customers."^{lxii} It is also noted in the testimony that "Taxis are not required to provide wheelchair accessible service under the Americans with Disabilities Act (ADA)."^{lxiii} Based on the testimony, the Public Service Commission is putting WAVs in place because other cities around the country are offering wheelchair accessible taxi service. We found that only three (3) taxi companies are providing wheelchair accessible service. Program highlights include:

- Not government mandated
- A permit system (not considered a medallion system though permits are bought and sold)
- Dispatch service
- 24-hour advanced booking
- No street hail
- Only customers who cannot transfer are provided accessible taxi service
- Taxis available to Paratransit riders^{lxiv}

- MTA Taxi Access II Service is available to MTA-certified Mobility (paratransit) customers
- Customers are given a Taxi Access card that is used to verify eligibility with the driver
- Customers pay a \$3 fare and any amount over \$20

Chicago, IL: The Department of Business Affairs is the government entity responsible for oversight. Over the past year the city of Chicago has doubled the number of wheelchair accessible vehicles in their fleet to 175 of their 6,722 vehicles (2.6 percent). Chicago recently passed legislation with the following requirement: “Any single licensee that owns or controls 20 or more licenses must place into service wheelchair accessible vehicles as taxicabs on five percent of its taxicab vehicle fleet.”^{lxv} An incentive for wheelchair accessible vehicles of \$100 off of the \$600 annual medallion fee is offered to encourage companies to make more of their cabs wheelchair accessible. Additionally, any cab company with more than 20 cabs must maintain at least five percent as accessible vehicles taxis.^{lxvi} Chicago’s accessible taxi service includes:

- Medallion system
- Incentives
 - Five-seven year use limit on all accessible vehicles or environmentally friendly vehicles versus four-year use limit for non-accessible vehicles
 - Monetary incentive program where a driver can receive a free taxi medallion for providing exemplary service
 - An industry fund subsidizing the purchase of wheelchair accessible cabs by raising the taxicab licensing fee from \$500 to \$600. The \$600,000 generated by that increase will be returned to those who purchase wheelchair accessible cabs.^{lxvii}
- The program is carried out by individual taxi cab companies which are required by law to include wheelchair accessible cabs
- MV-1 Vehicle
 - Accommodates two wheelchairs and three non-wheelchair passengers
- Paratransit
 - The Taxi Access Program allows RTA certified paratransit customers to travel in taxis at reduced rates for trips within the City of Chicago.
- TAP Swipe Card trips, good for a one-way taxi ride valued up to \$13.50, may be purchased for \$5.00 each. Riders must pay the difference if the taxi meter exceeds \$13.50.

Fairfax, VA: Accessible taxi service is available in Fairfax. Program highlights include:

- No government mandate
- Several independent companies offer wheelchair accessible taxi service
- Fairfax Red Top offers a 10 percent discounted rate for senior citizens and persons with disabilities
- Advance booking is required
- Toyota Sienna vehicle
- Paratransit
 - TaxiAccess is a program that provides subsidized taxicab service to Fairfax County residents who are MetroAccess users.
 - TaxiAccess users have the opportunity to purchase coupon books good toward taxicab rides at one-third of the face value.
 - Participants can purchase up to eight coupon books per year and the coupons can be used with any of the four taxicab providers licensed to do business in Fairfax County.^{lxviii}

Montgomery County, MD: Montgomery County requires that 8 percent of vehicles in a fleet of 20 or more taxis be wheelchair accessible. Currently, 48 of the 770 licensed taxis are wheelchair accessible. The

Montgomery County Department of Transportation is the government entity responsible for oversight. Montgomery County accessible taxi service includes:

- Medallion system
- Advance booking required
- The drivers are required to undergo training that is consistent with ADA standards.
- Subsidized Taxi Service: Call n Ride
 - Eligibility - low income and at least 67 years of age or low income and at least 16 years of age with a disability.
 - Clients may add up to \$120.00 monthly to swipe cards at discounts according to income.

New York City, NY: The Accessible Dispatch program was launched on September 14, 2012, and is overseen by The New York City Taxi and Limousine Commission (TLC). The TLC accessible dispatch program specifically services passengers using wheelchairs. It operates in Manhattan but takes passengers to any destination in the five NYC boroughs, Nassau and Westchester counties, as well as to the three regional airports, JFK, La Guardia and Newark, NJ. Since the program was launched, there have been 5,664 completed trips as of March 2013. The TLC plans to add an additional 2,000 accessible taxis to its yellow taxi fleet later this year as well as 3,600 accessible livery cabs which service boroughs other than Manhattan. After more than two decades of advocating for accessible taxi service, an April 18th NYC City Council hearing addressed Proposed Int. No. 443-A, a bill with 36 sponsors requiring that all newly manufactured taxicabs be accessible to people with disabilities. In December 2013, the TLC announced its intention to achieve a 50 percent accessible taxi fleet by 2020. The TLC will require that at least 50 percent of all new vehicles put into service during the regular replacement schedule will be accessible until 50 percent of the entire fleet is accessible. Their current wheelchair accessible service includes:

- Medallion system
- Dispatch service only available in the borough of Manhattan
- Street hail
- Pay normal metered fare
- ADA-compliant training required for drivers
- Rear-entry, lowered-floor minivan or a side-entry MV-1 vehicles
- Five ways to book a taxi:
 - Call 311
 - Call dispatch center directly
 - Text a request
 - Mobile app WOW Taxi (Wheels on Wheels)
 - Book online
- **Driver incentives:** New York has a state tax credit for taxi companies that upgrade to wheelchair accessible vehicles; the tax credit is up to \$10,000 per vehicle. Additionally drivers in New York City receive an additional fee for completing a trip dispatched by the Accessible Taxi Dispatcher. The Dispatch Fee will be \$6 for trips under .5 miles; \$10 for trips between .5 miles and 1 mile; and \$15 for all trips over 1 mile. The Dispatch Fee will include tolls to the pickup location and will also include an additional \$5 fee for wait time if the Driver waits for the passenger for more than 10 minutes after the later of either the appointed pickup time or the Driver's arrival at the pickup location (the \$5 is also payable if no passenger appears).^{lxix} 'Deadhead' miles paid for by \$98 fee paid by every medallion owner in the city – Added Incentive

Prince George's Count, MD: Prince George's County (PG) regulates the taxicab service industry through its Department of Environmental Resources and a five-member board, two members from the industry and three

members from the public. Wheelchair accessible taxi service began last year in PG County. Accessible Taxi, Inc., is the taxi company providing the service which includes:

- License System – receives a Certificate of Taxicab Regulation License
- Dispatch
- Pay normal metered fare
- ADA, safety and sensitivity training
- MV-1 vehicle model
- Pick-up guaranteed within 30 minutes of a call

San Francisco, CA: The San Francisco Municipal Transportation Agency is the government entity responsible for oversight of taxi regulation. San Francisco is the leading major city in the United States with the highest percentage of accessible taxis (16.5 percent). It is also one of the oldest with requirements dating back to 1994. Program highlights include:

- Medallion system
- Dispatch service
- Street hail but can reserve trip
- Minivan with side entry
- Pay normal fare
- City limit service only
- Paratransit Service^{lxx}
 - 14,000 registered riders, 4,000 registered wheelchair customers
 - 26,000 ramped taxi trips annually
 - Paratransit Debit Card issued to riders allows for better monitoring and reporting, enforcement, reduction in administration costs for taxi companies, faster invoicing process
 - Amendment to transportation code now requires monthly minimum wheelchair pickups
 - Monetary award for ramp taxi drivers who complete more than the average wheelchair pickups
 - Taxi companies receive a \$500 monthly bonus for providing the most wheelchair trips (per medallion)
 - 100 of the 156 required paratransit wheelchair pickups must be verified via debit card for ramp medallion applicants
 - Progressive disciplinary schedule, \$150 citation with repeat facing suspension
 - Ramped Taxi Driver Training Certification Required

London: London, England is the international leader in accessible taxi transportation with a 100 percent accessible fleet of 22,500 taxis. London's taxi service as a whole is regularly voted the best taxi trade in the world. The 100 percent figure was mandated by the Disability Discrimination Act of 1995 and reached by January 1, 2000.^{lxxi} London's Underground (Subway) and bus systems are not 100 percent accessible.^{lxxii} London was used by New York City as a model when designing the Accessible Dispatch Program.

D. TIMETABLE AND PLAN TO RAPIDLY INCREASE ACCESSIBLE TAXI AVAILABILITY

Following are Committee recommendations for a timetable and plan that would rapidly increase the numbers of accessible taxis in the District.

I. Revisit Existing Accessible Fleet Percentage Requirements in the DC Taxi and Sedan Laws

Under the DC Taxi Act, and sedan regulations, each taxi and sedan company with 20 or more taxis in its fleet as of July 1, 2012, will be required to dedicate a portion of its fleet to wheelchair accessible taxis: 6 percent by December 31, 2014; 12 percent by December 31, 2016; and 20 percent by December 31, 2018. The Commission may withhold license renewals for those companies that do not comply.^{lxxiii} Current District (and federal) law does not provide an exemption that would allow covered companies to avoid this requirement.

Since these requirements would only result in 3 percent of the D.C. taxi fleet being accessible by the end of 2018,¹⁸ the Committee recommends that the required percentage of accessible taxis in the covered fleets be increased to 30 percent in 2016 and 40 percent in 2018. In addition, with respect to the 20 or more fleet requirement above, the Committee believes that smaller taxi companies under the same ownership should be considered as one company. To do otherwise would be to encourage evasion of the requirements of the DC Taxi Act. For example, under such a revised model, three companies that each own seven taxis and have the same ownership would meet the 20 taxi threshold necessary to trigger the accessibility percentage requirements. The Committee also recommends requirements be made that accessible taxis provide service for a minimum number of hours per month.

Additionally, the Committee recommends revisiting regulations for digital dispatch companies. Digital dispatch companies should be required to offer service to all potential customers in the District, including individuals with disabilities, and the minimum fleet requirements for accessible vehicles should apply to digital dispatch companies as well. Digital dispatch companies who do not currently provide accessible service are only required to redirect customers in need of such service to a digital dispatch company that can accommodate them (if one is available).^{lxxiv}

II. Continue to Explore Use of Accessible Taxis for Provision of Paratransit Service

To further increase the number and usage of accessible taxis beyond the fleet percentage requirements for companies, the District should continue exploring the use of accessible taxis to supplement paratransit service. One option, which is still in the developmental stage¹⁹, is to create a program whereby independent taxi companies would provide accessible transportation services for qualified MetroAccess paratransit customers with particular medical needs. In such a model, the service would be provided either in existing MetroAccess vans or other accessible vehicles, and the taxi company would be reimbursed accordingly. In exchange for a certain number of rides²⁰ referred to and provided by the taxi company, the company would also be required to purchase one additional accessible taxi for their fleet. Proponents of such a program argue that it could save the District government a significant amount of money²¹, while increasing the number of accessible vehicles and providing companies with a new revenue stream.²²

Another alternative, adopted in jurisdictions such as San Francisco, is to provide taxi/digital dispatch ride vouchers to those certified for paratransit service.^{lxxv} However, the vouchers are not restricted to those who need an accessible vehicle; all taxis are permitted to accept the vouchers, and therefore the incentive to

¹⁸ Because the requirement applies exclusively to companies owning 20 or more vehicles, the regulation requires only 27 companies to make 20 percent of its vehicles accessible. Using 2013 vehicle registrations, of the 1,170 taxis owned by companies bound by the requirement, this would result in only 234 vehicles that would be required to be accessible. The 234 vehicles would represent only 3 percent of the overall District taxi fleet of 7,028 vehicles (see table G.1 in Appendix G).

¹⁹ A pilot of this program is expected to begin with patients who need dialysis.

²⁰ This number has not been determined, but is likely somewhere between 1,000 and 10,000 rides.

²¹ It's estimated the District could save 2 million dollars with a taxi-driven paratransit program, given the District currently pays contractors 50 dollars for each MetroAccess trip.

²² It should be noted that some disability advocates are concerned that dedicating too many accessible taxis to the paratransit program could result in a shortage of taxis for those who need an accessible one but do not qualify for the paratransit program.

purchase an accessible taxi is less than it would be otherwise. While this may be good in theory, it has not been as effective as anticipated – drivers have been reluctant to pick up passengers with disabilities who need accessible vehicles and jurisdictions have had to offer additional incentives. Moreover, this diffuse usage has not resulted in additional purchase of such vehicles since the program is essentially a voluntary one for taxi companies, rather than one which requires additional accessible vehicles be purchased.^{lxxvi}

The Committee recommends a combination of the first and second alternatives be adopted in the District with some modifications. With respect to the first alternative, there needs to be a way to include independent drivers or smaller companies, as appropriate, while retaining the requirement to increase the number of accessible taxis. The second alternative should prioritize individuals that need accessible taxis for voucher rides during the first year of the program; in the second year and afterwards, vouchers should only be valid for rides in accessible taxis.

III. Other alternatives

There are a number of other ways in which to increase the availability of accessible taxis in the District including:

- Optimizing the usage of accessible taxis by permitting them to be used more than eight hours per day, with different drivers²³; and
- Creating a reciprocity agreement to expand inter-jurisdictional availability of accessible taxis in the District, Virginia, and Maryland.

E. GRANTS, LOANS, INCENTIVES & REGULATORY MEASURES TO OFFSET THE COSTS OF PURCHASING, RETROFITTING, MAINTAINING AND OPERATING ACCESSIBLE TAXIS

Many cities and counties around the country are grappling with how to design and develop a taxi service that incorporates accessible vehicles. In this section we revisit DC's unique taxi industry and examine accessible vehicle and operating costs; the funding and incentives provided in eight of the jurisdictions that were discussed in Section C; federal and local incentive options; taxi industry incentives; and foundation loans and grants.

I. DC's Unique Taxi Industry

According to a 2007 report, *Entry Controls in Taxi Regulation*, the District's taxi industry is unique among larger cities in the U.S. DC has open entry for new companies or drivers, though a suspension on the provision of new licenses was recently lifted.^{24, lxxvii, lxxviii, lxxix} As a result, DC has the highest number of taxis per capita of any

²³ As discussed in Sections E and F of this report, taxis in the District can only be driven for 16 hours in a 24 hour period. But more restrictive is the current policy which often limits accessible taxis to one (trained) driver, for a total of 8 hours per day. Allowing accessible taxis to be driven more hours in a 24 hour period would increase the number of accessible taxis on the streets, and could help offset the high upfront investment of purchasing an accessible taxi.

²⁴ In November 2010, the DCTC continued a suspension of new Independent Taxicab Vehicle Numbers, and began a suspension of new limousine companies and operators and taxi companies. The DCTC cited "pending regulatory updates and on-going industry inspections and restructuring" as cause for the suspensions. In October 2011, DC Mayor Grey announced that the moratorium on applications for new taxi companies as long as the company provided "green" taxis and at least 10% of the fleet was wheelchair-accessible. In September 2012, DCTC announced that existing taxi and limousine companies would be able to register new vehicles starting October 15, 2012. The companies were defined as having not less than 20 vehicles under common management.

city. Other major cities operate on closed entry systems and require the purchase of a medallion²⁵ or permit, which can be expensive and difficult to obtain.

In addition, in larger cities like New York, a single taxi may be on the road continuously. According to a 2006 report, *The New York City Taxicab Fact Book*, “Four in ten owner-drivers lease their cabs to other driver(s) for a second shift.” In the case of companies who lease long-term, “typically, the cab [leased from a company to a driver long-term] is leased to two drivers who arrange to pass the vehicle back and forth at the end of each 12-hour shift.”

Under DC Regulations (Title 31, 822-12), a taxi may not be operated for more than 16 hours in a 24 hour period. In addition, a taxi driver may not drive more than 12 hours at a time in a 24-hour period, unless the driving time is broken by a period of eight hours of continuous rest. According to taxi industry representatives on the Committee including representatives from the two largest companies in the District, companies rent to only one driver on a weekly basis, the driver sets his/her own work schedule, and drivers are not allowed to sub-rent the vehicle. In addition, independent owner-operators, who comprise a majority of the taxi industry in the District, drive their own vehicles, set their own work schedule, and do not sub-rent their vehicles.

There have been proposals to convert the District system to a medallion system, but legislative efforts have been unsuccessful. The Professional Taxicab Standards and Medallion Establishment Act of 2011 was introduced by the DC Council in 2011. This bill would have created 6 classes of medallions with a cap set at 4,000 medallions ranging from \$250 to \$10,000 initial price, depending on whether the buyer was an individual or company and resident or non-resident. Class 4 was a wheelchair accessible medallion and would have cost \$250 for an individual, \$500 for a company and \$1,000 for non-residents. The number of class 4 medallions was to be set by the DCTC, but there was to be a cap on the number offered.

In general, there has not been a great deal of political support for the medallion system.^{lxxx} Taxi owners and drivers have been resistant to the introduction of medallions.^{lxxxi} A hybrid system that involves permits has also been discussed in the Committee as a potential option and is being trialed in Philadelphia.^{lxxxii} Both medallion and permit systems can provide for financial incentives to increase the number of wheelchair-accessible cabs.

II. Vehicle and Operating Costs of Accessible Cabs

A. General Vehicle and Equipment costs

Taxi companies and owner operators who may want to provide wheelchair accessible service have three options when considering a vehicle and equipment: add a ramp to the side or rear of (i.e., modify) a used van, purchase a new van that has been modified, or purchase a purpose-built accessible vehicle. An owner or company might consider how many passengers can be transported in a vehicle, and whether costs of purchasing and operating the vehicle can be recouped and a profit made.

The two common entry options for accessible taxis are side-loading and rear loading. According to a 2010 article^{lxxxiii} on the costs of accessible taxis, along with recent news,^{lxxxiv} the following are examples of costs of accessible vehicles:

²⁵ A medallion is a permit to operate a taxi and an asset. In a medallion system a city restricts the number of medallions that can be purchased, and thus the number of taxis that are on the street. The taxi authority sells the medallions to drivers or companies at a set rate initially. Over time, the medallion appreciates in value and becomes an asset for the owner. The medallion creates a market with a high barrier to entry, and is often criticized for creating monopolies and windfall profits for few. Medallion sales can create revenue for a city and taxi authority, as well as value for the owner.

- Dodge Grand Caravan – rear entry, seats 1 wheelchair user, \$25,000 to \$35,000
- Dodge Caravan – rear entry, seats 1 wheelchair user, \$46,000 to \$49,000
- Ford Freestar – low mileage, seats 1 wheelchair user, \$27,000 to \$30,000
- MV1 – low mileage, compressed natural gas option, seats 2 wheelchair-users, side entry, previously starting at \$40,000^{lxxxv}
- Conversion package only - \$11,000 to \$12,000

The MV1 is currently the only purpose-built, fuel efficient, accessible taxi option available. Production had ceased temporarily, but is scheduled to resume soon. Demand for additional purpose-built, fuel efficient, accessible vehicles could spur the market and lead to additional options.

B. General Maintenance and Operating Costs

Additional operation costs associated with accessible taxis could include increased gas costs, insurance, maintenance of the ramp and vehicle, dispatch service if available or desired, and training costs. Additional costs mentioned in the *Assessing the Cost* report or provided for in other jurisdictions include shorter trip lengths, more time for the passenger to load, and increased insurance rates. However, a study of Seattle accessible taxi trips found that the trip lengths in accessible taxis were just as long, or longer, than those in non-accessible vehicles.^{lxxxvi} Additional research is needed to identify the range of insurance rates. rollDC requires the company to carry a \$2 million per incident liability coverage for the company because of the associated federal funding (email from Roy Spooner, October 30, 2013). DC taxis are required to carry \$25,000 liability coverage.^{lxxxvii}

DC requires taxis to stop for all passengers with disabilities, including passengers using service animals or motorized wheelchairs. Current DC legislation does not prohibit wheelchair accessible taxis from stopping for passengers without disabilities. Allowing the accessible taxi to be used for any fare can help with maintenance costs.

C. Sample Cost Data from DC's rollDC Pilot Program^{lxxxviii}

rollDC is a pilot program created in the District that provided accessible vehicles and additional funds to two taxi companies in DC. The MWCOG applied for, and received, New Freedom Grant dollars, and matched those funds. The following chart provides data on costs.

Table E.1: rollDC Continuation Funding Data

Yellow Paratransit, approved by TPB June 2012 for 2 yrs.	Federal	Match	Total	Per veh, per yr.
Capital (7 vehicles; maintenance)	\$253,040	\$63,260	\$316,300	\$22,593
Operating (driver subsidies, operating costs, training)	\$145,080	\$145,080	\$290,160	\$20,726
Total	\$398,120	\$208,340	\$606,460	\$43,319
Possible Liberty application for 2 years	Federal	Match	Total	Per veh, per yr.
Capital (5 vehicles; maintenance)	\$200,000	\$50,000	\$250,000	\$25,000
Operating (driver subsidies, operating costs, training)	\$80,000	\$80,000	\$160,000	\$16,000
Total	\$280,000	\$130,000	\$410,000	\$41,000

+ Grant Administration: \$9,375 (5%) per year in 2013 and 2014.

+ Marketing: \$65,531 from August 2008 to December 2012 (\$52,425 FTA, \$13,106 Matching)

Source: MWCOG, February 2013.

In early 2013, MWCOG planned to receive additional federal transportation funds that would fund the program for an additional 2 years. The federal government would provide a total of \$280,000, with MWCOG

matching \$130,000 for a total of \$410,000. Yellow Paratransit was scheduled to receive \$316,300 to purchase and maintain 7 new accessible taxis for 2 years. This amount is equal to \$45,186 to purchase and maintain the vehicle. Liberty was scheduled to receive \$250,000 to purchase and maintain 5 vehicles for 2 years, amounting to \$50,000 per vehicle.

For operations, Yellow Paratransit was scheduled to receive \$290,160 to operate the accessible taxis for 2 years. Operation costs included driver subsidies, gas and training. This amount is equal to \$20,726 to operate each vehicle per year. Liberty was scheduled to receive \$160,000 to operate the accessible taxis for 2 years. Operation costs included driver subsidies, dispatching, vehicle lease subsidies, insurance, additional gas costs and training. This amount is equal to \$16,000 to operate each vehicle per year. Yellow Paratransit was scheduled to receive more funds per vehicle than Liberty because they had a record of completing more trips.

A total of \$9,375 was budgeted for grant administration for 2013-2014. During the initial roll-out of the program, \$65,531 was spent on marketing.

III. Financing and Incentives for Accessible Cabs in Other Jurisdictions

Many cities and counties around the country are working to increase the numbers of accessible taxis in their jurisdictions by providing subsidies and incentives, incorporating taxi service into programs for older adults and people with disabilities, and changing regulations.

What follows are brief descriptions of loans, grants and incentives used by other jurisdictions to fund accessible taxis.^{26, lxxxix}

A. Arlington, VA

In Arlington County, only taxi companies who have been issued a “certificate of public convenience and necessity” by the County Board may undertake taxi business. Each certificate has a specific number of taxi licenses associated with it. This number may also include special licenses, e.g., for wheelchair-accessible vehicles.

Arlington also has a STAR (Specialized Transit for Arlington Residents) subsidized program. STAR serves Arlington residents who have difficulty using public fixed route transit due to the effects of age or disability. STAR users must first be determined eligible for MetroAccess. STAR is a shared-ride paratransit service.

B. Baltimore, MD

Presently, Baltimore has no mandated accessible taxi service. All accessible taxis are provided on an “in-kind” basis by the taxi company. However, last December, the Public Service Commission that regulates taxi service proposed that if “...there are not 25 wheelchair accessible cab (WACs) in the City and five (5) in the County, the Commission will conduct a lottery for permits to bridge the remaining deficiency. The recommended levels include those already in service, which are around nine (9) WACs in the City and none in the County. These additional permits will be restricted to wheelchair accessible vans [WAVs], while providing service to all customers.”^{xc} Since that time, no wheelchair accessible taxis have been added to any of the taxi companies’ fleet.

C. Fairfax, VA

In Fairfax, there is no government mandate regarding accessible taxis. Fairfax Red Top offers a 10 percent discounted rate for senior citizens and persons with disabilities.

²⁶ Data provided by KFHV Group’s Elizabeth (Buffy) Ellis unless otherwise stated.

D. Prince George's County, MD

Prince George's County has a for-profit company, Accessible Taxi, LLC, which was created for the purpose of procuring accessible taxis and providing grant funds to be distributed throughout the state. In 2012, Accessible Taxi announced a Request for Proposals (RFP) with the scope of delivering up to fifteen ADA-compliant wheelchair accessible taxis to the state. There was \$423,833 available for this RFP.

E. Montgomery County, MD

Montgomery County requires that 8 percent of vehicles in a fleet of 20 or more taxis be wheelchair accessible. Currently, 48 of the 770 licensed taxis are wheelchair accessible. The Montgomery County Department of Transportation is the government entity responsible for oversight.

Montgomery County accessible taxi service includes two subsidized programs:

- **Call-n-Ride Program:** This Montgomery County program provides subsidized taxi trips for low-income persons with disabilities and seniors. To be eligible for the Call-n-Ride Program, you must be low-income and at least 67 years of age or low-income and at least 16 years of age with a disability.
- **Same Day Access Program:** This Montgomery County Transportation Program is part of the Call-n-Ride program, designed to provide subsidized transportation service for certified MetroAccess participants who must reside in Montgomery County and have a current MetroAccess Identification Card.

F. Long Beach, CA

Although not included in earlier sections of this report, we have included Long Beach here, as the TLPA cites it as a best in practice example.²⁷ Long Beach's transit authority contracted with Yellow Cab in the city, to provide accessible service. There are 15 accessible vehicles out of 175 cabs. These 15 vehicles are owned by the transit authority, which is reimbursed for the cost of modifications and maintenance, based on "non-contract miles". Yellow Cab of Long Beach gives its drivers a guaranteed fare of \$10 per trip. Trips that are not paratransit are subsidized by \$15 additional dollars to cover additional time associated with accessible fares.^{xc}

New York, Chicago, San Francisco

New York City (NYC), Chicago and San Francisco are all cities that have a long history with wheelchair accessible vehicles. The Committee conducted interviews with various officials and industry experts in each of these cities.

G. New York, NY

There are currently 233 accessible taxis in NYC, with an additional 200 accessible medallions recently auctioned for roughly \$1 million per taxi, generating more than \$200 million for the city^{28,xcii,xciii}. Passengers may request a ride through a central dispatch program or street hail and drivers are required to provide service to persons with disabilities if they are available. Passengers may only request a trip *from* Manhattan, though they may travel inside Manhattan or *to* any of the outer boroughs. Accessible taxis are now available at NYC airports.^{xciv}

According to Bill Scalzi, Executive Director of Accessible Dispatch, drivers receive an additional payment for completing a trip dispatched by the Accessible Taxi dispatcher. The payment, called a dispatch fee, is meant to

²⁷ Long Beach is cited as a best practice example in the TLPA's *Assessing the Full Cost of Implementing an Accessible Taxicab Program* report, page 36.

²⁸ An additional 200 are planned to be auctioned in the near future. New York state law could allow an additional 1,600 to be auctioned.

account for deadhead miles.^{29,xcv} Drivers receive \$6 for trips under .5 miles; \$10 for trips between .5 miles and 1 mile; and \$15 for all trips over 1 mile. The Dispatch Fee includes tolls to the pickup location and an additional \$5 fee for wait time if the Driver waits for the passenger for more than 10 minutes after the later of either the appointed pickup time or the Driver's arrival at the pickup location (the \$5 is also payable if no passenger appears). The 'deadhead' mile payment was paid for by a \$98 fee paid by every medallion owner in the city in the start-up year (2012). The owners now pay \$54 per year. As there are 13,400 medallions in New York City, this raises over \$700,000 annually (personal communication, October 3, 2013).³⁰

New York City uses a medallion system. The sale and transfer of these medallions provide revenue for the drivers, corporations, the Taxi and Limousine Commission (TLC) and the city of New York. The medallions are individually numbered and the number is presented in multiple formats on the car for physical proof of a taxicab license. The medallion number appears on the medallion, the roof light, and the license plate and on both the interior and exterior of the taxi doors. The taxis must also be "yellow" and are hailed from the street.

Individual owners can lease out their medallion once they meet a service requirement of 210 nine hour shifts driven by the driver. Corporations must have at least two medallions in order to operate. The medallion is financed through a system run by lawyers and brokers. The market value for the medallion system is measured at a Compound Annual Growth Rate of 14 percent a year for the past 50 years. The Medallion Financial Corp. is the oldest and largest organization in this field.

The number of medallions issued is closely watched and regulated in order to keep the value of the medallions at a marketable level. Currently there are 13,237 medallions in the TLC system with 4,876 of them individually owned and 8,361 in a fleet or corporate owned.

In December 2013, the TLC announced its intention to achieve a 50 percent accessible taxi fleet by 2020. The TLC will require that at least 50 percent of all new vehicles put into service during the regular replacement schedule will be accessible until 50 percent of the entire fleet is accessible.^{xcvi}

Finally, as has been noted, New York has a state tax credit for taxi companies that upgrade to wheelchair accessible vehicles; the tax credit is up to \$10,000 per new vehicle or vehicle that has received modifications.^{xcvii}

H. Chicago, IL

There are approximately 175 accessible taxis in Chicago.^{xcviii} Passengers may request a ride through a central dispatch program or street hail and drivers are required to provide service to persons with disabilities if they are available.

Chicago issues taxi medallions that confer the right to operate a taxi. Anyone owning between 15 and 49 medallions (adding portions of medallion ownership together) must have one wheelchair accessible vehicle (WAV), and anyone owning 50 to 74 medallions must have two. Above that, medallion owners are required to have one additional WAV per every 25 vehicles. The city has in the past assisted individual owner-operators in purchasing WAVs. For example, the city has provided \$10,000 for the purchase of a ramped van, but has only distributed these grants to a small number of owners (fewer than 10). The funding used to sponsor this program has since been depleted.

²⁹ According to the National Transit Database, deadhead miles are defined as miles travelled and time spent when out of revenue service, e.g. time spent en route to pick up a passenger.

³⁰ Additional detail regarding the dispatch program, including estimated operating costs, can be found in the TLC Notice of Promulgated Rules: http://www.nyc.gov/html/tlc/downloads/pdf/approved_acc_dis_taxi.pdf

According to Taxi Commissioner Rosemary Krimbel, Chicago originally tried splitting medallions on auction one year. The city offered 40 new sedan medallions and 10 new WAV medallions. Feedback was not strong and the WAV medallions sold for significantly less than the traditional medallions.

In 2012, Chicago rewrote its taxi regulations, increasing the number of year that a WAV was allowed to remain in service. Non-WAV vehicles must be replaced after 4 years. WAVs may remain in service so long as they pass inspection. Once this law was changed, 100 more WAVs were purchased (R. Krimbel, personal communication, October 8, 2013). Many of the WAV used in Chicago are MV-1's. Chicago has found that the modified Dodge Caravan does not handle the wear and tear as well as the purpose-built MV-1. The MV-1 went out of production and is rumored to be coming back on line at the end of this year.

In order to pay for the program, the commission added \$100 to the annual cost of a taxi license for licensees not driving a WAV. The \$100 goes directly to a WAV Reimbursement Fund, which is being coupled with other sources. Recently, Chicago implemented the "Wheelchair Accessible Vehicle (WAV) Cost Reimbursement Plan". As reported in a Regional Transportation Authority press release, the city received a \$1.7 million award from the New Freedom federal grant program. The New Freedom grant funds will serve as a matching fund to the WAV Reimbursement Fund. However, the Commissioner cautioned that the federal money has restrictions (eg, as all WAVs must be American made). The City will provide a reimbursement of \$15,000 to \$20,000 to those who purchase or modify a WAV and is expected to increase the number of WAVs in the city by 130 vehicles.

Chicago also provides a Driver Excellence Award. WAV drivers are nominated by passengers. An evaluation committee comprised of users selects the winner who receives a free WAV medallion which can be leased out to other drivers. The winner has to have picked up a wheelchair user 200 of the last 300 days. The 2012 winner received 80 nominations (R. Bapat, personal communication, September 27, 2013).

Chicago also recently issued an RFP for a new operator for its centralized dispatch. Open Doors, a non-profit, won the contract and began providing service in August 2013. Owners pay \$215 per month to receive dispatch services. If Open Doors does not get a response right away for a trip, the company provides gift cards and gas cards to drivers. Drivers who pick up a certain number of accessible trips receive vouchers that allow them to skip to the front of the line at the airport. Open Doors provides training. Passengers who use wheelchairs assist with the training and are paid. Open Doors system does not include a smartphone application. Open Doors is looking for a new partner to provide this service (E. Lipp, personal communication, October 3, 2013).

I. San Francisco, CA

San Francisco's Municipal Railway initiated wheelchair-accessible ("ramp") taxi service in 1994 as part of its paratransit program with six temporary medallions, and eventually expanded to 100 permanent medallions out of 1,635 taxi cabs. Ramp taxi medallions were made available to drivers who were on a waiting list for sedan medallions. The 100 ramp taxi medallion holders will be sent an offer letter to trade their ramp medallion for a sedan medallion in 2013 and 2014. In the future, the SFMTA will lease the ramp medallions directly to taxi companies.^{xcix}

Ramp taxis may pick up wheelchair and non-wheelchair user fares, but must prioritize wheelchair passenger requests and fares.^c San Francisco provides debit cards to paratransit-eligible passengers for sedan and ramp taxi service. The passenger presents the debit card to the driver at the beginning of the trip so that the driver can ensure there is adequate balance on the card.^{ci} The debit card allows the driver and paratransit service and taxi authority to track the number of paratransit-eligible trips the driver has made.

San Francisco incentivizes and regulates wheelchair accessible taxi drivers who provide trips for paratransit eligible passengers. The SFMTA found that many ramp taxi drivers spent much of their time at hotels and airports to take advantage of the larger vehicle size. The transportation code was amended to require a

minimum number of wheelchair user pickups for drivers of accessible taxis. Drivers must pick up 8 wheelchair users per month, 6 must be paratransit passengers.^{cii} Incentives include a lesser fee to taxi companies for the lease of a ramped taxi. San Francisco’s paratransit program provides bonuses for accessible taxi drivers who complete more than the required number of wheelchair user pickups. Drivers can receive \$75-\$250. Taxi companies receive a \$500 monthly bonus for providing the most trips to wheelchair users (per medallion).^{ciii}

San Francisco began offering monetary incentives in January 2011. As of September 2012, over \$66,000 worth of incentive awards had been distributed to 90 drivers. The city also has a “progressive disciplinary” schedule and process for complaints and adjudication for both companies and riders. Through the citation process, funds are used as revenue to provide more wheelchair accessible rides.

According to The Paratransit Manager at SFMTA, the city’s paratransit program pays for the accessible system (Kate Toran, personal communication, October 4, 2013).

The following chart consolidates information from all jurisdictions.

Table E.2: Other Jurisdiction’s Funding and Incentives

City	Funding & Incentives
Arlington, VA	Subsidized Taxi Service <ul style="list-style-type: none"> STAR (Specialized Transit for Arlington Residents)-Paratransit service for Arlington residents who have difficulty using public fixed route transit due to the effects of age or disability
Baltimore, MD	<ul style="list-style-type: none"> No mandate Taxi companies provide in-kind wheelchair accessible taxi service
Chicago, IL	<ul style="list-style-type: none"> Industry Subsidizing the purchase of vehicles through WAV Reimbursement Cost Plan The 1M WAV Reimbursement Fund is seeded with an additional \$100 license fee on all non-WAV drivers. Federal New Freedom grant funds were used to match the 1M. \$215 subscription fee to central dispatch service for all WAV drivers Increase in the # of years a WAV may stay on the road (from 4 to 5 years, 6 if the vehicle is also fuel efficient.) After 5 years, the WAV may stay on the road as long as it passes inspection. Voucher to cut to the front of the line at airports for WAV vehicles providing service to wheelchair users. Incentive for WAVs of \$100 off the \$600/year medallion fee
Fairfax Co., VA	Subsidized Taxi Service <ul style="list-style-type: none"> TaxiAccess is a program that provides subsidized taxicab service to Fairfax County residents who are eligible for paratransit. TaxiAccess users have the opportunity to purchase coupon books good toward taxicab rides at one-third the face value Participants can purchase up to eight coupon books per year and the coupons can be used with any of the four taxicab providers licensed to do business in Fairfax County.^{civ}

Montgomery Co., MD	Subsidized Taxi Service: <ul style="list-style-type: none"> • Call n Ride • Same Day Access (SDA) Program Persons with disabilities, low income and at least 67 years of age or low income and at least 16 years of age with a disability are eligible.
New York, NY	<ul style="list-style-type: none"> • Tax credit for taxi companies up to \$10,000 • \$54 per year fee to all medallion holders to fund the accessible dispatch line (\$98 the first year for capital costs) • Deadhead mile reimbursement to drivers: \$6 for ½ mile travelled or less to pick up passenger, ½-1 mile \$10, 1 mile+ \$15. No show reimbursement \$10. • Shorty (cutting to the front of the line at the airports) privileges Sale of 2,000 New Medallions
Prince Georges Co., MD	<ul style="list-style-type: none"> • Funding from the Council on Governments and Accessible Taxi Inc. Accessible Taxi Inc. – offered a one-time RFP to MD companies total \$423,833
San Francisco, CA	<ul style="list-style-type: none"> • Monetary award for ramp taxi drivers who complete more than the average wheelchair pick-ups • Taxi companies receive a \$500 monthly bonus for providing the most wheelchair trips (per medallion) • 100 of the 156 required paratransit wheelchair pickups must be verified via debit card for ramp medallion applicants • Progressive disciplinary schedule, \$150 citation with repeat facing suspension
Long Beach, CA	<ul style="list-style-type: none"> • 15 vehicles are owned by the transit authority, which is reimbursed for the cost of modifications and maintenance, based on “non-contract miles” • Yellow Cab of Long Beach gives its drivers a guaranteed fare of \$10 per trip. Trips that are not paratransit are subsidized by \$15 additional dollars to cover additional time associated with accessible fares

IV. Federal and Local Incentives

A. New Freedom/Section 5310

The Federal Transportation Administration’s (FTA) New Freedom grant program has been used in a number of cities to fund up to 80 percent of the purchase price of accessible cabs that are used by private taxi companies. With the new Federal transportation legislation, MAP 21, the New Freedom program has been merged into the Section 5310 program and is now often called the Section 5310/Enhanced Mobility grant program. While the final Federal Circular that spells out the parameters of the funding program is not yet published, the purchase of accessible taxis with the funds is allowable.^{cv}

This program (49 U.S.C. § 5310) provides formula funding to states for the purpose of assisting private nonprofit groups in meeting the transportation needs of the elderly and persons with disabilities, when other transportation service provided is unavailable, insufficient, or inappropriate for meeting these needs. Funds are obligated based on the annual program of projects included in a statewide grant application. The state agency ensures that local applicants and project activities are eligible and in compliance with federal requirements; private not-for-profits have an opportunity to participate as feasible; and the program provides for coordination with transportation services assisted by other federal sources. Once FTA approves the application, funds are available for state administration of its program and for allocation to individual sub-recipients within the state.^{cvi} States are direct recipients of Section 5310 funds.

Section 5310 funds are available to the states during the fiscal year of apportionment plus two additional years (total of three years). The 5310 funds are apportioned among the states by a formula which is based on the number of elderly persons and persons with disabilities in each state according to the latest available U.S. census data. The federal share of eligible capital costs may not exceed 80 percent of the net cost of the activity. 10 percent is eligible to fund program administrative costs including administration, planning, and technical assistance. The local share of eligible capital costs shall be no less than 20 percent of the net cost of the activity. Eligible projects, recipients and sub-recipients are addressed in a recent FTA proposed circular.

cvii,31,cviii

B. Additional Potential Public Funding

The FTA suggests funding and financing resources on its website.^{cix} Following are brief descriptions of the mechanisms. Additional research is required to ascertain whether a District accessible taxi program or the DCTC would be eligible for funds.

An Infrastructure Bank - A number of states and cities have recently begun looking into establishing Infrastructure Banks. An Infrastructure Bank is a revolving fund set up by a public entity to provide loans and other credit vehicles. The Infrastructure Bank is often funded initially by federal and city money.

Revenue Bonds – Municipalities often issue revenue bonds to fund necessary capital, infrastructure, economic development, and human service needs. Revenue bonds require a specific funding stream to service the debt that is issued.

Capital Leasing – Capital leasing is a routine way of financing capital equipment. Grantees may use Federal funds for capital assistance for up to 80 percent the cost of acquiring transit assets by lease. A capital lease can be used to purchase capital equipment such as vehicles or it can be used to purchase a combination of capital and maintenance services such as chassis rebuilding and engine/drive train replacement. Transit agencies use cost-benefit analysis to decide whether to lease or buy.

A TIFIA-Type Program- According to the FTA, “the Transportation Infrastructure Finance and Innovation Act (TIFIA) program provides Federal credit assistance in the form of direct loans, loan guarantees, and standby lines of credit to finance surface transportation projects of national and regional significance.”^{cx} The District and advocates could lobby Congress to offer credit for projects that exceed the ADA.

Public-Private Partnerships (PPP) – According to the FTA, “a PPP is an arrangement between the public and private sectors to acquire, build or maintain a public project. Transit PPPs may take multiple forms: procurement; operation; and design build operate and maintain (DBOM). PPP’s can shift the risk from the project sponsor to the private sector, and reduce overall risk in procurement.”^{cx} The District could enter into a PPP with: private foundations; non-profits; for-profit companies; and stakeholders that may benefit including

³¹ The FTA recently released a draft circular of the guidance for 5310 programs. 5310 funds would be divided, 55% of the funds would go towards traditional projects, 45% to other projects. Traditional projects must be carried out to meet the specific needs of seniors and individuals with disabilities. It is not sufficient that they would be included or merely benefit from the project. Other projects are provided greater flexibility. “Projects must be targeted toward meeting the transportation needs of seniors and individuals with disabilities, although the services may also be used by the general public (III-9).” To be eligible for 5310 funds, projects in urbanized areas must be included in the Metropolitan Transportation Plan prepared and approved by the Metropolitan Planning Organization (in the District, MWCOG) (IV-1). MWCOG is currently the recipient of 5310 funds, though more than one recipient may be designated, and the multiple recipients must agree on how they will split the funding and report to the FTA annually (III-2). Eligible sub-recipients include a State or local-government authority, a private non-profit organization, or an operator of public transportation that receives a 5310 grant indirectly. Exclusive-ride taxi companies can accept 5310 funds to purchase accessible taxis under contract with a recipient or sub-recipient (III-5).

the hospitality industry. The PPP could acquire and lease accessible vehicles, provide modifications for existing taxis, pay for and provide training, or create and sustain an accessible dispatch service.

In addition, the following federal and state financing options may prove useful.

Social Impact Bonds – Social Impact Bonds are a type of pay for performance contract that is being investigated in multiple jurisdictions. In New York City, for example, the city sought a private partner to finance and implement a pilot program to reduce juvenile recidivism. In this case, Goldman Sachs invested funds, which were in part, guaranteed by the Bloomberg Foundation. Service was provided by a third party and an additional private partner measures results.

Tax Credits and Deductions – As has been mentioned, New York provides a \$10,000 tax credit for accessible taxis. A 2010 TLPA report mentions a tax deduction for passenger transportation businesses that incur costs for making a vehicle accessible the: “Architectural/Transportation Tax Deduction”, Section 190 of the Internal Revenue Code. Another deduction discussed is the “Disabled Access Credit”, Section 44 of the Internal Revenue Code.^{cxii}

C. City/County Subsidies and Service Programs

Some form of public involvement appears to be necessary to establish accessible taxi service. Cities are using a combination of regulations, incentives, and direct involvement to establish wheelchair accessible taxi service. Examples include percentage requirements in taxi fleets; issuing medallions or licenses restricted to wheelchair accessible taxis; free or lower-priced wheelchair accessible taxi medallions; waiving annual fees; and using public funds to help purchase wheelchair accessible taxis.

Steps taken to make wheelchair accessible taxi service work for taxi drivers include requiring or subsidizing discounted leases from taxi companies, and letting wheelchair accessible taxi drivers go to the head of the line at airports, trains or bus stations. Providing taxis to paratransit-eligible passengers could decrease paratransit costs for the city, increase business for taxi drivers and allow for increased flexibility for paratransit riders.

In DC accessible taxis represent only a small percentage (.3 percent) of the total taxi fleet, and street hailing is near impossible. Until accessible taxis represent a larger percentage of the total DC fleet, effective dispatching is needed to make accessible taxi service available to wheelchair users.

D. Partnering with Public Agencies and Subsidies

A number of cities and counties provide subsidies for public transportation programs that utilize or generate money or requirements for accessible taxis. Jurisdictions contract with accessible taxi companies or owners in user-side subsidy programs, providing eligible users (often seniors and people with disabilities) with vouchers, coupons or debit cards for discounted taxi trips. A National Cooperative Highway Research Program report^{cxiii}, *Local and State Partnerships with Taxicab Companies*, and Committee research provide the following examples of these public transportation programs partnering with accessible taxis:

- General public dial-a-ride;
- Subsidized taxis and demand responsive service for seniors or people with disabilities;
- Non-emergency medical transportation;
- Guaranteed ride home;
- Student transportation; and
- 911 transport.

In addition to the public agency partnerships discussed above, some municipalities provide subsidies to taxicab companies such as:

- Discounts on the weekly lease rate for an accessible taxi;
- Discounts on the fees that drivers pay the taxi companies for dispatching and insurance;
- Extra funds (\$2.00 in rollDC) per trip to compensate for “wait time” because the driver cannot start the meter until the passenger is properly loaded and secured in the vehicle.³²(in exchange the driver signs an agreement that wheelchair trips will get priority for service);
- A free lease day based on the number of accessible taxi trips a driver has provided;
- Reduced fees, including waiving or offering decreased licensing fees;
- Monetary awards for ramp taxi drivers who complete more than the average wheelchair pick-ups; and
- Monthly bonuses to taxi companies for providing the most wheelchair trips.

Lessons from the Case Studies

The *Local and State Partnerships* report describes lessons learned from case studies. According to the report, partnering with taxis can be cost effective and expand service to the public in the right circumstances with appropriate controls and incentives. Some lessons learned include:

- Taxis can be more economical and effective for certain trips than buses or other modes;
- Trips need to be economically attractive for independent contractor drivers;
- Steady business is an incentive for some drivers;
- Taxicab companies need to recover costs;
- Contracted rates may be better than meter rates;
- Partnership arrangements need to take into account the opportunities and limitations created by taxicab regulations;
- Active program oversight is necessary;
- Intermediaries can help with quality control and contract oversight;
- Technology reduces costs and allows better control; and
- Taxicab partnerships should avoid competition with regular taxicab service.

E. City/County Regulation

Along with subsidies and incentives, many cities or regulatory bodies are requiring that companies over a certain size (e.g., with x number of vehicles) have a certain percentage of accessible taxis. Although this cannot be categorized as an incentive, it can work when there are entry controls on the number of taxis in a system. In the District, there is no regulatory control on entry to the market aside from a recently lifted suspension of license issuance. Many cities deregulated in the 1970’s, but have since adopted some entry regulations.

According to the *Taxi Regulations/Entry Controls* report, some ways that local or state governments regulate entry into a market include:

- Toughening licensing qualifications or limiting numbers of cabs in a fleet for cab companies;
- Placing geographic restrictions on a license (i.e., where a driver can pick up and/or drop off);
- Restricting the number of cab licenses or medallions sold in a market;
- Restricting the number of taxis or type of taxis allowed in a taxi stand at an airport, hotel, convention center or other high volume area;
- Allowing wheelchair-accessible taxis to be given priority and be the first in line at the airport, train stations, or other high-traffic locations;

³² The ADA prohibits charging higher fees to passengers with disabilities (49 CFR § 37.105). Dispatched drivers can currently charge a Wait Time fee of twenty-five dollars (\$25.00) per hour. According to DC regulations, “Wait time begins five (5) minutes after time of arrival at the place the taxicab was dispatched” (DC Mun Reg 31-801.7(3)).

- Allowing wheelchair-accessible taxis to be allowed to sit in areas where inaccessible taxis cannot sit; and
- Extending age requirements for accessible vehicles.

F. Current DC Regulations and Financing Mechanisms

Regulations

As previously mentioned in the Legal Requirements section of this report,³³ the DC Taxi Act establishes DC's first regulations requiring wheelchair accessible taxis. Under the DC Taxi Act, each taxi company with 20 or more taxicabs in its fleet as of July 1, 2012, will be required to dedicate a portion of its fleet to wheelchair accessible taxis: 6 percent by December 31, 2014; 12 percent by December 31, 2016; and 20 percent by December 31, 2018. The Commission may withhold license renewals for those companies that do not comply. Current DC (and federal) law does not provide a defense that would allow covered companies to avoid this requirement.

A taxi company is defined as "any person, partnership, or corporation engaging in the business of owning and operating a fleet or fleets of taxicabs having a uniform logo or insignia. A company must have a minimum of 20 taxicabs having a uniform logo or insignia and having unified control by ownership or by the company."

The DC taxi industry is comprised of a few larger companies, associations of owners, and many individual independent owner-operators. Independent owner-operators may affiliate with a company for services, such as dispatch, or the use of a company's logo or insignia. Members of the industry have stated that about 85 percent of the taxis in the District are owned by individual drivers. They have also stated that the vehicles owned by the companies are rented to drivers.

A company may have difficulty requiring upgrades to vehicles of independent owner-operators who merely affiliate with the company. An amendment to the DC Taxi Act, introduced by Councilmember Cheh and adopted by the Council, clarified certain requirements for accessibility. In the Explanation and Rationale section of the adopted amendment stated that "the requirement for taxicab fleets to increase the number of wheelchair accessible vehicles applies only to fleets owned by companies, not taxicabs owned by individual drivers, even if they are associated with a company."

According to the DC Taxi Act, the percentages may be increased based on the recommendations of the Committee and the need for accessible service.

In addition, the DC Taxi Act amended the Regulation of Taxicabs purposes to include, "provi(sion of) specific policies and programs to increase wheelchair accessible taxicab service to the disabled throughout the District."

Funding

The DC City Council's FY2014 Budget included an amendment that sets aside monies to increase the number of wheelchair accessible taxis.^{cxiv} For fiscal years 2014 and 2015 the first \$4.7 million deposited in the DCTC Fund, a fiduciary fund reliant upon taxi operator and passenger fees, shall go toward DCTC operations. \$750,000 of the remaining funds shall be used to increase the number of wheelchair accessible vehicles in the District. Additional funds raised could go towards accessible taxi service as well.³⁴ Currently, the DCTC's budget officer

³³ See page 6 in section A: The Legal Requirements for Providing Accessible Taxi Service

³⁴ According to D.C. Official Code 50 § (320(b)), the "Fund shall be used to pay the costs of the Commission, including the costs of operating and administering programs, investigations, proceedings, and inspections, and any costs including any costs for improving the District's taxicab fleet."

does the accounting and would handle the fees. It is unlikely that DCTC would reach the \$4.7 million threshold until next year.³⁵ There have not been formal recommendations about how the money should be used.

In addition, the DC Taxi Act creates a Public Vehicles-for-Hire Consumer Service Fund. The fund consists of a passenger surcharge, a Commission license fee, and funds from the Department of Motor Vehicles' Out-Of-State Vehicle Registration Special Fund. The funds may be used by the Commission to provide grants, loans, incentives, or other financial assistance to taxicab owners to offset the cost of acquiring, maintaining, and operating wheelchair-accessible vehicles. The funds may also be used to provide a taxicab fare discount for low-income senior citizens aged 65 years and older and persons with disabilities. The \$750,000 to be set aside for accessibility in FY2014 and 2015, after \$4.7M in revenue is raised, would be considered part of the Consumer Service Fund.

Paratransit

Under the ADA, public entities providing fixed route service (e.g., buses routes and subways) available for the general public are required to provide complimentary paratransit service to persons unable to use the fixed route service. Under the ADA, paratransit is not a substitute, but it is a supplement to fixed route service.

In the District, paratransit eligible riders are guaranteed a ride when they need one, but they must call one day in advance, and it is a shared ride service. All MetroAccess paratransit vans in the District are wheelchair accessible. Private transportation companies are awarded contracts, through a competitive bidding process, to operate the vans. The District pays the Washington Metropolitan Area Transit Authority (WMATA) a subsidy of approximately \$50 per trips for MetroAccess trips provided to District residents.

Currently, WMATA and DCTC are proposing a pilot project to offer an alternative to paratransit service for District residents currently using MetroAccess service to travel to and/or from dialysis facilities. The benefits to the riders include increased flexibility on trip time; shorter trips; and direct trips. Taxi companies participating in the pilot project must guarantee trips availability under this program. Customers participating in the pilot project will be issued prepaid debit card by the DCTC, which will cover the bulk of the cab fare. Customers will be required to pay a smaller cash fare to the driver. It is expected that the fare will be a flat rate. The taxi business will be offered to select companies. Once the companies have completed a certain number of trips, they will be required have to purchase a new WAV.^{cxv}

V. Potential Taxi Industry Incentives

Taxi Company and Taxi Commission Incentives

In certain cities, the taxi companies that have accessible taxis provide incentives on their own to encourage a driver to drive an accessible taxi. For example, companies in some cities discount the weekly lease rate for an accessible taxi, so the drivers pay less per week to the company than a driver who leases a traditional taxi sedan.^{36,cxvi} DC's Yellow Cab provides incentives to its wheelchair accessible taxi drivers as part of an in-kind donation to the rollDC pilot program.

In cities that have strict entry controls on the number of taxis allowed to operate, the designated regulatory body can provide incentives for accessible taxis. According to the *Local and State Partnerships* report, a portion of the project funds in rollDC are being used to provide drivers with discounts on the fees that they pay the taxi companies for dispatching, vehicle lease, and insurance. In addition, the drivers receive \$2.00 per trip. In exchange, one of the companies requires the drivers to sign an agreement that wheelchair trips will get

³⁵ DCTC is currently certified for just over \$4M in 2014. FY2015 is yet to be determined.

³⁶ The TLPA reports companies on San Antonio, TX and Denver, CO providing lower lease rates.

priority for service. Each driver also receives 6 hours of training from a trainer hired by the COG. About 25 drivers have been trained of whom three or four have dropped out. Typically, there is only one driver assigned to each vehicle.

VI. Foundation Loans/Grants

The Committee has not identified any loan programs geared specifically towards funding wheelchair accessible taxicabs. However, philanthropic foundations do support programs designed to foster and address social, economic and community development including addressing the transportation needs of seniors and persons with disabilities. Initial exploration of the Foundation Center's Foundation Directory^{cxvii} pointed to a handful of potential funders for increased accessible taxis service in the District. Foundation monies could be used towards acquisition or modification of vehicles, training, administration, creation of a dispatch program, or other operation or capital costs.

Some potential foundation partners include:

- AMERIGROUP Foundation
- The Bank of America Charitable Foundation, Inc.
- Lutheran Social Services of the National Capital Area, Inc.
- The Morris and Gwendolyn Cafritz Foundation
- Philip L. Graham Fund
- Surdna Foundation, Inc.
- The Wachovia Wells Fargo Foundation, Inc.

The District can accept donations, but only for purposes for which government can spend money. There are special rules for the District partnering with foundations or accepting donations. The DC Office of Attorney General would need to review the relationship.

F. RECOMMENDED GRANTS, LOANS, INCENTIVES & REGULATORY MEASURES TO OFFSET THE COSTS OF PURCHASING, RETROFITTING, MAINTAINING AND OPERATING ACCESSIBLE TAXIS

Following, please find the Committee's recommendations regarding grants, loans, and incentives that could be provided or undertaken to offset the costs of purchasing, maintaining and operating accessible taxis. We are including regulatory recommendations that could incentivize the purchase and use of accessible taxis that do not involve significant costs to the District.

I. Regulatory Recommendations

There are a number of recommendations from the Committee that do not involve any significant upfront financial investment. These are changes that the District and DCTC can make that can provide incentives to drivers of accessible taxis.

A. Allow accessible taxis to remain in service as long as they pass inspection.

Given new regulations in the District on the number of years that a taxi can remain in service^{cxviii}, providing a longer vehicle life could provide a significant incentive to drivers. In addition, given the high upfront costs of purchasing an accessible taxi, allowing a longer life will allow drivers to recoup their initial investment.

B. Allow accessible taxis to pick up passengers in Maryland, Virginia and the District.

Although the idea of inter-jurisdictional taxis has been a delicate subject in the past, it is the Committee's understanding that there have been positive discussions among taxi stakeholders in the District, Maryland and Virginia regarding reciprocity for accessible taxis. Consider allowing accessible taxis from a different jurisdiction to pick up a passenger needing an accessible ride if they have had to cross jurisdictions on their previous fare.

C. Allow accessible taxis to go to a separate line at Union Station or area airports.

In other jurisdictions, such as Chicago, accessible taxis are allowed to forego long lines at airports. This solution provides for more efficient service for passengers and provides an incentive to the driver who no longer needs to wait in long lines.

D. Allow accessible taxis to be used by multiple drivers for more than 16 hours in a 24 hour period.

As discussed above, taxis in the District can only be driven for 16 hours in a 24 hour period. This regulation prohibits drivers from sharing vehicles. Allowing accessible taxis to be driven more hours in a 24 hour period would increase the number of accessible taxis on the streets. It would also allow owners to share in the high upfront investment of purchasing an accessible taxi. However, there could be hurdles to this change as some current drivers may not be interested in this proposal. Companies who rent or lease vehicles would have difficulty requiring drivers to share a vehicle or work longer hours.

II. Budgetary Recommendations**A. Introduce a tax credit for accessible taxi owners.**

New York state provides a tax credit for owners of accessible taxis. The credit provides up to \$10,000 per new vehicles or new modifications.^{cxix} Tax credits provided in DC, Virginia and Maryland could decrease the costs of accessible taxi purchases for DC taxi drivers.

B. Purchase accessible taxis in bulk to be leased or sold to taxi owners and drivers.

A barrier to increasing the number of accessible taxis is the high cost of modifications or the purchase of a new vehicle. DC could offer to purchase modified or purpose-built accessible taxis in bulk for a discount to be leased or sold to drivers or owners. San Francisco will be trading existing accessible medallions for sedans, and leasing the accessible taxis to drivers.

III. Industry Recommendations**A. Wave license or training fees for accessible taxi owners.**

An additional barrier often cited for increasing the number of accessible taxis in service is the higher operating cost. Although license and training fees are not significant, waiving this cost for owners of accessible taxis could provide a small incentive to owners and can generate good will.

B. Add a fee for non-accessible taxi owners.

Some other cities studied during our investigation require a small additional annual license fee from all owners of non-accessible taxi vehicles. Usually the fee is set low enough (less than \$200 per vehicle) such that owners do not protest. However, the accumulated amounts can be set aside in a fund to offset costs of accessible taxi purchases.

C. Provide central dispatch for accessible taxi service, including partnering with third parties to use smartphone app.

Until the District reaches the goal of a 100 percent accessible fleet, a well-run central dispatch for accessible taxi service may assist in providing quality service without unreasonable wait times. This type of service reduces the need for passengers to call multiple companies as well as reducing the likelihood that a passenger may set up rides from multiple companies. In addition, the taxi industry seems to be embracing the use of

new technology to enhance business. Although traditional phone dispatch remains a necessity, partnering with a provider who can provide smartphone service is critical to providing efficient service to both passengers and drivers. Close cooperation among current taxi companies would be necessary to ensure that the central dispatch would be able to work with the companies' own fleet management tools.

D. Utilize accessible taxis to provide rides to paratransit or service program-eligible passengers.

In other jurisdictions, such as San Francisco, savings to the paratransit service pays for the accessible taxi program. The partnership provides owners and drivers with a guaranteed income source, thereby increasing the number of owners who might be willing to purchase an accessible taxi. As we discussed above, the initial cost of an accessible taxi can be prohibitive, and a guaranteed income stream can provide a significant incentive. The District is currently looking into a PILOT program for dialysis patients. It would make sense to implement this program and learn from experience before increasing the service to more paratransit or service programs.

III. Potential Financing Option Scenarios

In addition to the regulatory changes and industry changes outlined above, there seem to be two main ways to garner significant financial resources to increase the number of accessible taxis.

A. Open Entry

The District can maintain an open entry system with licenses, providing heavy incentives and increasing requirements for owners to purchase vehicles (either on their own or through the government that has gotten a bulk discount). An open entry system might include use of the following funding sources:

- A DOT New Freedom Fund grant;
- Federal loans or loan guarantees;
- Local budget grants;
- A Tax credit;
- Foundation funds and/or matches; and
- Social impact bonds.

Securing federal New Freedom funds often require a local match. The District could apply for federal loans or loan guarantees. The District could use the increased license fee discussed above to match. In addition, the District could look for a partnership with a foundation or other PPP. This partnership could be set up similar to social impact bonds, where the foundation provides upfront funding for the purchase of accessible taxis. The District could institute a tax credit for accessible taxi owners to defray the costs of maintenance and gas. If the District allowed the accessible taxis to be used for paratransit service or service programs, the District's operating cost could be decreased, which would enable the District to pay a below-market return on the foundation's investment.

B. Closed Entry

The second approach is more radical. The District could implement a medallion-like system. In a limited-entry system, medallions or licenses could be offered only for accessible taxis or for a 1-to-1 match (i.e. a regular medallion could only be purchased if the company purchased an accessible taxi). By restricting supply, the District could create a market for medallions. If an owner could obtain equity in a valuable medallion, he or she could potentially finance the purchase of an accessible taxi.

There are some issues to be aware of when considering a medallion system. Often, in a system like this, there are big winners and losers. Those lucky enough to purchase a medallion for a limited fee in the first round can often make windfall profits when reselling the medallion later on. At the same time, the barriers to entry for those who are not fortunate enough to win a medallion in the initial round are vast. In addition, to create a

medallion system, the number of taxis in the District might need to be reduced to create value for the medallion. The reduction in number of vehicles could have a negative impact on the overall taxicab service in the District.

G. PROPOSALS FOR BECOMING A 100 PERCENT ACCESSIBLE TAXI FLEET

The Committee supports setting a long-term goal of the District having a taxi fleet with 100 percent accessible vehicles. Such a model, which was successfully adopted a number of years ago in London, ultimately focuses on the “universal design” of the system; that is to say, by incorporating accessible design features into all taxis, then any taxi can be used by any individual – regardless of age, ability, or disability. Moreover, focusing on universal design changes the paradigm of having to create and maintain two systems – one accessible, one not – in favor of one unified system that everyone can use.

Part II and III of this section outline two different proposals for the District to join London in being a model system for accessible taxi transportation. In Part II, we discuss our recommended option, which is based on the current open entry taxi system discussed in Section E. Our recommendation relies on modifications to existing regulatory requirements and new regulatory incentives to “phase-in” a 100 percent accessible taxi fleet. The second proposal, which is based on a medallion or otherwise closed entry taxi system not currently used in the District, relies on new regulatory requirements agreed upon by drivers when granted entry into the market. Recommendations for driver trainings and public awareness campaigns are made for both proposals.³⁷

Initially, we will begin with a review of recent regulatory changes affecting the District taxi industry that are relevant for the proposed goal of a 100 percent accessible taxi fleet.

I. Recent Statutory and Regulatory Changes

A. Wheelchair Accessibility

As has been noted, a taxi company with 20 or more taxis in its fleet must have at least six percent of its vehicles be wheelchair accessible by December 31, 2014; at least 12 percent by December 31, 2016; and at least 20 percent by December 31, 2018.^{CXX} By definition, the term “taxi company” means any person, partnership, or corporation engaged in the business of owning and operating a fleet (or fleets) of at least 20 taxicabs and having unified control by the ownership or company. Accordingly, this requirement does not apply to taxis owned by individual drivers.

B. Features and Appearance

New regulations require the following for all District taxis:

- Ability to accept credit cards;^{CXXI}
- A standardized dome light to alert potential customers to the status of the vehicle and its identification number;^{CXXII} and
- A standardized color and pattern scheme (although adoption is only required when making an equipment change is required due to age or mileage limits or after a failed inspection at the Department of Motor Vehicles.^{CXXIII}

³⁷ Upon request, the Disability Advisory Committee can provide legislative language for most recommendations, based on models used in other jurisdictions.

C. Driver Training

New taxi drivers after August 1, 2013 – regardless of vehicle-type – must complete a primary public passenger vehicle-for-hire license training course as established by the DC Taxi Commission (DCTC). The training will include information on laws and regulations, public relations skills, small business practices, driving skills, and importantly, the legal requirements related to transporting people with disabilities and compliance with the Americans with Disabilities Act of 1990.

Additionally, training for drivers of accessible taxis must include:^{cxxiv}

- The legal requirements that apply to transporting individuals with disabilities, including providing equal access to transportation and complying with the ADA;
- Passenger assistance techniques, including a review of various disabilities, hands-on demonstrations of how to assist those with disabilities, mobility equipment training (including familiarity with lift and ramp operations and various types of wheelchairs and personal mobility devices), and safety procedures;
- Training with an actual person using a wheelchair or personal mobility device; and
- Sensitivity training, including customer service and conflict resolution techniques, as well as overall training in passenger relations and courtesy.

D. Age Limitations

All vehicles that are 12 years or older must be retired by January 2014 and no new vehicles will be licensed that are more than five years old or have accumulated more than 300,000 driving miles. Additionally, the following schedule (Table G.2 below) indicates when vehicles currently in service must be removed from service.^{cxxv}

Table G.2: UPCOMING REMOVAL SCHEDULE ^{cxxvi}		
Disposal Year**	Age Policy***	Model Year
2014	17 years or older	1997 - below
2015	11 - 16 years	2004 - 1998
2016	9 - 11 years	2007 - 2005
2017	7 years or older	2010 - 2008
** Vehicles must go out of service on Jan 1st of the year listed. <i>Mileage is not a factor in this removal schedule.</i>		

Effective January 1, 2018, no vehicle that is more than seven years old or has accumulated more than 400,000 driving miles can remain in service.

II. Committee's Recommended Proposal: Achieving a Fully Accessible Taxi Fleet Within the District's Current Open Entry Taxi System

The Committee recommends working within the District's current open entry taxi system to achieve the long-term goal of a 100 percent accessible taxi fleet. While the existing open entry taxi system allows for greater flexibility among drivers entering the market, integrating our accessibility goal will require additional regulations and incentives, enhanced training and public awareness, enforcement, and administrative improvements.

A. Regulatory System Changes Necessary for Achieving a Fully Accessible Taxi Fleet

Achieving a fleet of 100 percent accessible taxis in the District is an attainable goal. Sections E and F of this report provided financing, incentive and regulatory options. Additional regulatory changes, along with a combination of incentive-based options, could pave the way to a fully accessible taxi fleet.

The Committee recommends the following requirements be put into place:

1. Require dispatch companies, sedan companies and owners that do not currently provide accessible service to pay into a District Accessible Service Fund.

Digital dispatch companies and sedan owners and companies that do not provide (or have service agreements with providers of) accessible taxi service should be required to pay into a District Accessible Service Fund. This fee would be assessed annually and could go towards the purchase of accessible taxis, training, and/or costs needed to more fully implement accessible taxi service in the District. The City Council should also consider whether District stakeholders that would benefit from increased accessible taxi service, such as the hospitality industry, should also be required to pay into the Fund.

2. In conjunction with the DCTC's age restrictions for taxis, require all new vehicles that replace taxis removed from service to meet accessible design guidelines.

As noted above, between 2013 and 2017 all vehicles older than seven years will be removed from service. The Committee recommends the District update their regulations to require that beginning in 2015, all new taxi vehicles licensed in the District meet a minimum set of accessible design standards. The District could support this accessible taxi replacement process through a variety of means, such as providing accessible taxis to lease, or loan guarantees, tax credits or other incentives towards the purchase of new, accessible vehicles. Alternatively, the District could provide increased incentives for the replacement of an older vehicle with an accessibly designed model for a limited time period (for example, 2014-2017), and then move to the accessible design taxi requirement for all new vehicles starting in 2018.

The Committee believes replacing aged out vehicles with accessible vehicles is a feasible model for rapidly increasing the number of accessible taxis and achieving a 100 percent accessible fleet. In comparison, the Americans with Disabilities Act of 1990 (ADA) required public buses that aged out to be replaced with accessible models over time.^{cxviii} As a result, and within a relatively short period of time, the nation's public bus system became accessible to nearly all passengers.

The Committee recommends establishing, and updating over time, an accessible taxi design standard rather than requiring the purchase of a specific vehicle. A Commission of members from DCTC, Office of Disability Rights (ODR), taxi industry and disability rights community, with consultation with the U.S. Access Board, should set and agree upon these accessible taxi design standards. The standards could incorporate existing ADA requirements developed by the Access Board, as appropriate, regarding space and securement requirements, and could also include such specific issues as ramp location; rear or side-entry requirements; hearing loops; accessible payment systems; as well as ramp or entrance height and slope requirements that are accessible for wheelchair and non-wheelchair using passengers who may require lower steps or slope. The District could then incentivize manufacturers who develop vehicles that meet or exceed these standards.

3. Utilize financing options identified (eg, public-private partnerships, a taxi company or dispatch-provider fee, federal matches) to purchase accessible taxis to lease or sell.

The District, in partnership with a private company, non-profit, foundation, or other city or urban areas – and/or with the use of federal grants or loans – should explore opportunities to work with vehicle manufacturers to determine whether it is possible to negotiate a lower price for new accessible taxi vehicles in exchange for a promise to purchase a certain number of such vehicles. In such a scenario, the District could then lease or sell the vehicles to drivers or companies, or be the conduit for such transactions. The use of this model could also help drive improvements in accessible taxis, and could make operating such a vehicle

attainable for independent owner-drivers who might not be able to purchase a vehicle outright. The Committee recommends that an existing agency, such as the Office of Contracts and Procurement, oversee the purchase and administration of the program.

B. Regulatory Incentives toward a 100 Percent Accessible Taxi Fleet

Incentives for stakeholders are an important component in achieving a 100 percent accessible taxi fleet in the District. Many drivers work long hours and rely on their jobs to support their families, often struggling on low incomes. Many of these incentives were recommended in Section F of this report.

1. Increase the age allowance for accessible taxis and/or allow them to remain in service for as long as they pass inspection.

Given new regulations in the District limiting the number of years that a taxi can remain in service, providing a longer vehicle life could provide a significant incentive to drivers. In addition, given the high upfront costs of purchasing an accessible taxi, allowing a longer life will help drivers recoup their initial investment.

2. Allow accessible taxis to go to a separate line at Union Station or area airports.

In other jurisdictions, such as Chicago, accessible taxis are allowed to forego long lines at airports. This solution provides for more efficient service for passengers and provides an incentive to the driver who no longer needs to wait in long lines.

3. Introduce a tax credit for accessible taxi owners.

New York state provides a tax credit for owners of accessible taxis. The credit provides up to \$10,000 per new vehicles or new modifications. Tax credits provided in DC, Virginia and Maryland could decrease the costs of accessible taxi purchases for DC taxi drivers.

4. Wave license or training fees for accessible taxi owners.

An additional barrier often cited for increasing the number of accessible taxis in service is the higher operating cost. Although license and training fees are not significant, waiving this cost for owners of accessible taxis could provide a small incentive to owners and can generate good will.

5. Allow accessible taxis to be used by multiple drivers for more than 16 hours in a 24 hour period.

As discussed above, taxis in the District can only be driven for 16 hours in a 24 hour period. This regulation prohibits drivers from sharing vehicles. Allowing accessible taxis to be driven more hours in a 24 hour period would increase the number of accessible taxis on the streets. It would also allow owners to share in the high upfront investment of purchasing an accessible taxi. However, there could be hurdles to this change as some current drivers may not be interested in this proposal. Companies who rent or lease vehicles would have difficulty requiring drivers to share a vehicle or work longer hours.

6. Give an annual award to a taxi driver of an accessible taxi who provides outstanding service.

As an incentive, Chicago awards a Driver Excellence Award to the most outstanding driver of an accessible taxi. They solicit input from the disability community, and the winning driver receives a wheelchair taxi medallion. Here, the District could offer a prize of a long lease, a used or new accessible taxi, or a training and license package.

7. Use Universal Access Funds to create an accessible vehicle lottery.

Funds collected through the passenger surcharge, from the DCTC, or from dispatch companies or owners of inaccessible taxis could be used for a lottery. Independent owner/drivers could submit their names to win an accessible taxi.

C. Required Training

In addition to the regular training curriculum, the training of DCTC drivers should include disability sensitivity, ADA 101, and operational and equipment training (use of restraints, seat belts etc. within the vehicle).

The disability sensitivity and ADA 101 trainings should be done by ODR in compliance with their mission. All new taxi drivers and current licensed drivers who wish to drive accessible taxis must complete this training. All current drivers should also be required to be retrained every two years when they apply for license renewal. This training will be an opportunity for drivers to be provided with both policy and cultural competencies, which will help create a community of well-informed drivers.

The operational and equipment trainings should be required annually as changes and updates in technology and equipment occur. Such a requirement would be in accordance with other national safety training processes. The training should be conducted by a national organization that can address the different vehicle models used in the District. There may be a similar pre-existing relationship with training companies through other agencies such as Department of Human Services which, for example, coordinates training of homeless shelter van drivers.

It should be the responsibility of DCTC to administer the training program, including maintaining the training records for drivers, sending updates and reminders for renewal trainings, and reporting on compliance with the program in the annual report.

D. Public Awareness

The Committee recommends a public information campaign to increase the public's awareness and understanding of the efforts to create a 100 percent accessible taxi fleet. In this context, the messages and mediums should be geared toward two separate target audiences: (1) all District residents and visitors, and (2) District residents and visitors in need of accessible taxis.

Importance of Public Awareness

Public awareness strategies are important for creating public buy-in and increasing accessible taxi demand in the early stages of the proposal. For people in need of accessible taxis, information about the availability of those vehicles, and how to access them, particularly during the early stages of the program, is critical for helping set a strong foundation in achieving the promise of the program's goals. Moreover, raising awareness about the benefits of having accessible taxis available for all District residents and visitors can also aid in increasing demand for, and use of, these vehicles.

While the messages may have a different focus based on the target audience, the primary objective should be to share with the public the benefits of accessible taxis.

Messages for all District residents and visitors could include:

- Accessible vehicles go beyond accommodating people with disabilities, and are designed to fulfill the needs of the widest range of people possible. This can include senior citizens, people with temporary illnesses or injuries, parents with strollers, and people who carry or use large equipment, among others. *Everyone* will benefit from having accessible vehicles available at some point.
- Many people, either due to age or other circumstances, eventually require more accessible modes of transportation, and accessible taxis can help fill this need.
- Accessible transportation, including accessible taxis, will make the District an attractive destination for travelers with disabilities, helping the tourism industry and local tax base.

Messages for those in need of accessible taxis could include:

- Equal access to accessible taxis supports the civil rights of individuals with disabilities in the District;
- Through its commitment to a fully accessible taxi fleet, the District is renewing its promise to be one of the most accessible and welcoming destinations for people with disabilities; and
- Specific information for locating accessible taxis while the proposal is phased-in, along with anticipated timelines for achieving a 100 percent accessible taxi fleet.

Mediums for Disseminating Messages

Although not an exhaustive list, means for disseminating the messages should vary to reach the largest possible audience. Reasonable accommodations (eg, large print, accommodations for hearing impaired, and braille) must also be made available. Opportunities include:

- Newspapers and media outlets
- Public service announcements on radio and television
- Advertisements in the Metro system, Metro Access system and bus shelters
- Materials and outreach to agencies and organizations that work with populations frequently in need of accessible vehicles

E. Enforcement

The Committee recommends that procedures and systems, along with responsible personnel, be put in place and tasked with monitoring compliance, providing technical assistance, and ensuring enforcement of the laws and regulations regarding the accessibility of taxicabs, and progress toward the fully accessible taxi fleet goal. At least initially, this process would be helped by creating a position for an “Accessible Taxi Czar” who could help set up such procedures and systems; work with stakeholders regarding incentives and additional regulatory measures; coordinate technical assistance, information, training, and public awareness; and generally make sure the program is moving forward with its goals. There should be bi-annual reports regarding the progress that has been made, and any additional recommendations provided to interested parties such as the Mayor, DC City Council, Office of Human Rights, Office of the Chief Financial Officer, Office of Disability Rights and Disability Taxicab Advisory Committee. In addition, the Accessible Taxi Czar should be provided with appropriate staff and have access to DCTC data on relevant issues.

Additional attention is also needed on who will be responsible for enforcement. Normally, enforcement of laws involving the DCTC is done by Public Vehicle Enforcement Inspectors³⁸, but these Inspectors may not have the skill, training, or time to conduct accessibility inspections.

F. Administrative Improvements

Government programs are under significant pressure to provide the public with data analysis that provides reports on the “return on investment” (ROI) of funds. Each year District Government agencies provide budget analyses as well as performance reports to multiple stakeholders. Program reports include financial analyses which provide accounting of funds spent and budget forecasts for future spending necessities. This Committee recommends that all programs for increasing the number of accessible taxis in the District provide a standardized performance measurement analysis at the end of each fiscal year. Such a performance measurement analysis should be similar to that utilized by the United States Department of Transportation

³⁸ The position is described as follows: “The PVEI provides daily enforcement by on-street monitoring of individual public vehicle for hire operations, for hire driver conduct, public vehicle for hire fleet operations and other district public vehicle for hire rules and regulations.” Additional responsibilities can include inspecting public vehicle for hire companies and association facilities, and examining company records to ensure that policies, practices and procedures are in compliance with all applicable regulations.

with respect to its programs, with a “platform” or foundation built on established goals with processes in place for achieving them. This platform would include but is not limited to data sets, indicators and other forms of data gathering analysis. In this process the grantees are required to provide multiple ROI data in both quantitative and narrative analysis.

In this process, DCTC should define and provide required data and information, and develop and conduct data analysis for the implementation of best practices in their work. A database that tracks the number, types and mileage of each taxi on the road should be created. The process of gathering data should also include collaboration with DC Department of Motor Vehicles (DMV) to ensure the normalization and synchronization of databases.

Additional recommendations on administrative improvements can be found in Appendix H.

III. Proposal Two: Closed Entry Taxi System

If the City Council, in coordination with DCTC, implements a closed entry tax system using medallions, the “Administrative Improvements” and “Required Training” sections (Sections F and C, above) would remain the same as in an open entry taxi system. The regulatory requirements and incentives to build a 100 percent accessible taxi fleet would differ from the open entry system, and would be dependent on the type of closed system adopted. Existing drivers should be prioritized during permit or medallion distribution.

A. Regulatory Requirements in a Closed System

During a transition from the existing open system to a closed system, permits or medallions should only be issued to accessible taxis. To ease the transition for taxi drivers, permits or medallions could be phased in at a replacement rate similar to the replacement rate created by the age removal schedule included in Section G, part I(D).

B. Regulatory Incentives in a Closed System

To ease the financial burden of those drivers purchasing an accessible vehicle and a permit or medallion, monetary incentives should be provided. Many of these incentives were recommended for an open system, above, or in Section F of this report.

1. Introduce a tax credit for accessible taxi owners. *(see II(B)(3) above)*

2. Allow accessible taxis to be used by multiple drivers for more than 16 hours in a 24 hour period. *(see II(B)(5) above)*

3. Establish a revolving loan fund to provide assistance for low income District drivers.

For low-income drivers seeking private loans to purchase an accessible taxi, permit or medallion, the District can establish a revolving loan fund. Federal DOT Section 5310 funds can be used to establish revolving loan funds.^{cxxviii} After these upfront costs are met, drivers in a closed system should be able to make payments given the reduced competition.

4. Give an annual award to a taxi driver of an accessible taxi who provides outstanding service. *(see II(B)(6) above)*

C. Distribution of Permits or Medallions

Multiple methods exist for the distribution of permits or medallions in a newly closed system, however existing drivers should be prioritized in the initial offerings. By pricing the permit or medallion at a reasonable rate in the initial phases, providing a limited number of free medallions, or by holding a closed auction open only to District residents who have been driving taxis for an agreed upon number of years, existing drivers should be

able to participate in the closed system. Additional options and analyses are available in the May 2011 Office of the Chief Financial Officer report “Taxicab Medallions—A review of experiences in other cities”.

H. PROPOSED TIMELINE AND PLAN WITH FEASIBILITY, COSTS AND BENEFITS

This Committee recommends requiring all new taxis be accessible when replacing old taxis that are removed from service. This recommendation is a key component of achieving a 100 percent accessible fleet.

A. Timetable and Plan

As mentioned above, between 2014 and 2017 all vehicles older than seven years will be removed from service. The Committee recommends the city update regulations requiring new vehicles licensed starting in 2015 meet a minimum set of accessibility standards.

B. Feasibility

The Committee believes that replacing aged out vehicles with accessible vehicles is a feasible model for both rapidly increasing the number of accessible taxis and achieving a 100 percent accessible fleet.

Precedent

The Americans with Disabilities Act of 1990 required aged-out public buses to be replaced with accessible models over time. As a result, and within a relatively short period of time, the nation’s public bus system became accessible to all passengers.^{cxix} A universally designed environment has also been phased in over time, with the ADA requiring new or renovated buildings to meet a set of minimum accessibility requirements. In addition, the New York City Taxi and Limousine Commission (TLC) recently announced its intention to achieve a 50 percent accessible taxi fleet by 2020. The TLC will require at least 50 percent of all new vehicles put into service during the regular replacement schedule be accessible until half the entire fleet is accessible.^{cxxx} New York City’s public officials, taxi commission and disability advocates have blazed a trail, but this Committee believes the District can lead the way to a 100 percent accessible fleet.

Technology & Costs

Under the age requirement rules, drivers are currently required to replace their taxi once it has reached five years or 300,000 miles. The purchase of a new or used van along with accessibility modifications, or a purpose-built vehicle could cost up to \$40,000.³⁹ The city could support the replacement process by exploring opportunities to negotiate a low price for a set number of accessible taxi vehicles, and then provide the taxis for lease, or by loan guarantees, tax credits or other incentives for the purchase of new vehicles (see sections E and F of this report for a discussion of potential financing mechanisms). Alternatively, the District could provide increased incentives for the replacement of an older taxi with an accessible model for a limited time, for example 2014-2017, and begin requiring accessible taxis in 2018.

The Committee recommends establishing, and updating over time, an accessible taxi design standard rather than requiring the purchase of a specific proprietary vehicle. The standard would incorporate existing ADA requirements regarding space and securement. Vehicle requirements could also include: ramp location; rear or

³⁹ It’s important to note that government rarely provides monetary assistance to help businesses meet requirement of the Americans with Disabilities Act, with the exception of two infrequently used tax incentives. However, with respect to businesses, there are greater accessibility requirements when replacing, renovating, or constructing, under the theory that it is usually less expensive to build in accessibility features than it is to retrofit them. That analysis, which is most often applied to the built environment, works less perfectly with respect to accessible taxi vehicles at this moment in time. While this will change over time, some advocates agree that one-time subsidies are reasonable until it does.

side-entry requirements; as well as ramp or entrance height and slope requirements that are accessible for wheelchair and non-wheelchair using passengers who may require lower steps or slope. The District could incentivize manufacturers who develop vehicles that meet or exceed these standards.

The Committee believes the monetary cost to carry out this program is outweighed by the District's lost revenue from inaccessibility and to its reputation as a welcoming place for all people. Increased taxi ridership would lead to increased taxes for those who are able to travel to work, and revenue for DCTC and District businesses. The District could save a significant amount in funds by allowing paratransit-eligible riders to use taxis as well.

Industry Support and Involvement

DCTC Chairman Ron Linton has repeatedly voiced his support of achieving a 100 percent accessible fleet in the District. DCTC's support would be integral to any plan moving forward.

While taxi companies and associations have been involved in the writing of this report, the Committee recommends additional outreach to companies, associations, independent owners/drivers and the newly formed union as soon as possible. DCTC or the City Council Transportation Committee could hold stakeholder meetings to generate discussion and answer questions, and appoint a DCTC Panel to implement the changes required.

C. Benefits

Phasing in the requirements for accessible taxis over time builds on an already existing age limit regulation and spreads the burden of purchasing an accessible taxi over time.

As noted in Section B of this report, future accessible taxis that are built low to the ground could offer increased space in the main passenger compartment that would allow many benefits. These benefits could include: allowing more than one person using a wheelchair to travel at a time; greater leg space for all passengers; and the ability for parents with strollers or passengers with other mobility devices such as canes, or walkers, to travel with their equipment without having to store it in the trunk.⁴⁰ Future taxi manufacturers may also find a way to provide the necessary space to accommodate any passenger while conserving energy, lessening the impact on the environment.

Achieving a 100 percent accessible taxi fleet also realizes the first and third goals of the One City Action Plan established in 2012:^{cxxxi} (1) Grow and Diversify the District Economy; and (3) Improve the Quality of Life for All. Action 3.7.4 requires the District to work towards increasing the number of accessible taxis. Providing taxis that can be utilized by more of the District's residents, workers and visitors can generate revenue for taxi drivers and DCTC. When passengers who were previously denied access to this service are able to travel to work, tourist destinations or shopping centers, the District benefits from additional tax revenue and businesses benefit from an increased customer base.

Finally, the most significant benefit of establishing a 100 percent accessible taxi fleet is the acknowledgement of the worth and rights of all Americans, those with and without disabilities should have the same rights and privileges to live and work in, and visit our nation's Capital.

⁴⁰ According to the Ron Mace, founder of the North Carolina State University Center for Universal Design "Universal design is the design of products and environments to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design" (Retrieved from http://www.ncsu.edu/www/ncsu/design/sod5/cud/about_us/usronmace.htm). Dropped sidewalk curbs, a standard used around the world to make sidewalks accessible for all, and closed captioning were initially provided for persons who are deaf or hard of hearing and are now used in bars and airports, are two examples of accommodations created for people with disabilities, but now used by all.

D. Conclusion

It is critical for the District to increase the number of accessible taxis and access to taxi service to meet the current and future demands of individuals with disabilities who live in, work in, or visit the District. Setting a long-term goal of a 100 percent accessible taxi system where any taxi could transport any passenger, including passengers with any disability, is a progressive and necessary goal. This Committee looks forward to continuing to work toward providing support to DCTC and the DC Council's Transportation Committee to achieve this goal.

APPENDIX – A.1

U.S. Code of Federal Regulations

Title 49: Transportation

Part 37: Transportation Services for Individuals with Disabilities (ADA)

Source: 56 FR 45621, Sept. 6, 1991, unless otherwise noted.

Subpart A-General

§ 37.3 Definitions.

Accessible means, with respect to vehicles and facilities, complying with the accessibility requirements of parts 37 and 38 of this title.

The *Act or ADA* means the Americans with Disabilities Act of 1990 (Pub. L. 101-336, 104 Stat. 327, 42 U.S.C. 12101-12213 and 47 U.S.C. 225 and 611), as it may be amended from time to time.

Auxiliary aids and services includes:

- (1) Qualified interpreters, notetakers, transcription services, written materials, telephone headset amplifiers, assistive listening devices, assistive listening systems, telephones compatible with hearing aids, closed caption decoders, closed and open captioning, text telephones (also known as telephone devices for the deaf, or TDDs), videotext displays, or other effective methods of making aurally delivered materials available to individuals with hearing impairments;
- (2) Qualified readers, taped texts, audio recordings, Brailled materials, large print materials, or other effective methods of making visually delivered materials available to individuals with visual impairments;
- (3) Acquisition or modification of equipment or devices; or
- (4) Other similar services or actions.

Demand responsive system means any system of transporting individuals, including the provision of designated public transportation service by public entities and the provision of transportation service by private entities, including but not limited to specified public transportation service, which is not a fixed route system.

Disability means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment.

(1) The phrase physical or mental impairment means—

- (i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory including speech organs, cardiovascular, reproductive, digestive, genito-urinary, hemic and lymphatic, skin, and endocrine;
- (ii) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities;

(iii) The term physical or mental impairment includes, but is not limited to, such contagious or noncontagious diseases and conditions as orthopedic, visual, speech, and hearing impairments; cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, specific learning disabilities, HIV disease, tuberculosis, drug addiction and alcoholism;

(iv) The phrase physical or mental impairment does not include homosexuality or bisexuality.

(2) The phrase major life activities means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and work.

(3) The phrase has a record of such an impairment means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) The phrase is regarded as having such an impairment means—

(i) Has a physical or mental impairment that does not substantially limit major life activities, but which is treated by a public or private entity as constituting such a limitation;

(ii) Has a physical or mental impairment that substantially limits a major life activity only as a result of the attitudes of others toward such an impairment; or

(iii) Has none of the impairments defined in paragraph (1) of this definition but is treated by a public or private entity as having such an impairment.

(5) The term disability does not include—

(i) Transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;

(ii) Compulsive gambling, kleptomania, or pyromania;

(iii) Psychoactive substance abuse disorders resulting from the current illegal use of drugs.

Individual with a disability means a person who has a disability, but does not include an individual who is currently engaging in the illegal use of drugs, when a public or private entity acts on the basis of such use.

Private entity means any entity other than a public entity.

Service animal means any guide dog, signal dog, or other animal individually trained to work or perform tasks for an individual with a disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals with impaired hearing to intruders or sounds, providing minimal protection or rescue work, pulling a wheelchair, or fetching dropped items.

Vehicle, as the term is applied to private entities, does not include a rail passenger car, railroad locomotive, railroad freight car, or railroad caboose, or other rail rolling stock described in section 242 of title III of the Act.

Wheelchair means a mobility aid belonging to any class of three- or more-wheeled devices, usable indoors, designed or modified for and used by individuals with mobility impairments, whether operated manually or powered.

[56 FR 45621, Sept. 6, 1991, as amended at 58 FR 63101, Nov. 30, 1993; 61 FR 25415, May 21, 1996; 63 FR 51690, Sept. 28, 1998; 76 FR 57935, Sept. 19, 2011]

§ 37.5 Nondiscrimination.

(a) No entity shall discriminate against an individual with a disability in connection with the provision of transportation service.

(b) Notwithstanding the provision of any special transportation service to individuals with disabilities, an entity shall not, on the basis of disability, deny to any individual with a disability the opportunity to use the entity's transportation service for the general public, if the individual is capable of using that service.

(c) An entity shall not require an individual with a disability to use designated priority seats, if the individual does not choose to use these seats.

(d) An entity shall not impose special charges, not authorized by this part, on individuals with disabilities, including individuals who use wheelchairs, for providing services required by this part or otherwise necessary to accommodate them.

(e) An entity shall not require that an individual with disabilities be accompanied by an attendant.

(f) Private entities that are primarily engaged in the business of transporting people and whose operations affect commerce shall not discriminate against any individual on the basis of disability in the full and equal enjoyment of specified transportation services. This obligation includes, with respect to the provision of transportation services, compliance with the requirements of the rules of the Department of Justice concerning eligibility criteria, making reasonable modifications, providing auxiliary aids and services, and removing barriers (28 CFR 36.301-36.306).

(g) An entity shall not refuse to serve an individual with a disability or require anything contrary to this part because its insurance company conditions coverage or rates on the absence of individuals with disabilities or requirements contrary to this part.

(h) It is not discrimination under this part for an entity to refuse to provide service to an individual with disabilities because that individual engages in violent, seriously disruptive, or illegal conduct. However, an entity shall not refuse to provide service to an individual with disabilities solely because the individual's disability results in appearance or involuntary behavior that may offend, annoy, or inconvenience employees of the entity or other persons.

Subpart B-Applicability

§ 37.29 Private entities providing taxi service.

(a) Providers of taxi service are subject to the requirements of this part for private entities primarily engaged in the business of transporting people which provide demand responsive service.

(b) Providers of taxi service are not required to purchase or lease accessible automobiles. When a provider of taxi service purchases or leases a vehicle other than an automobile, the vehicle is required to be accessible unless the provider demonstrates equivalency as provided in § 37.105 of this part. A provider of taxi service is not required to purchase vehicles other than automobiles in order to have a number of accessible vehicles in its fleet.

(c) Private entities providing taxi service shall not discriminate against individuals with disabilities by actions including, but not limited to, refusing to provide service to individuals with disabilities who can use taxi vehicles, refusing to assist with the stowing of mobility devices, and charging higher fares or fees for carrying individuals with disabilities and their equipment than are charged to other persons.

Subpart D-Acquisition of Accessible Vehicles by Public Entities

§ 37.77 Purchase or lease of new non-rail vehicles by public entities operating a demand responsive system for the general public.

(a) Except as provided in this section, a public entity operating a demand responsive system for the general public making a solicitation after August 25, 1990, to purchase or lease a new bus or other new vehicle for use on the system, shall ensure that the vehicle is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(b) If the system, when viewed in its entirety, provides a level of service to individuals with disabilities, including individuals who use wheelchairs, equivalent to the level of service it provides to individuals without disabilities, it may purchase new vehicles that are not readily accessible to and usable by individuals with disabilities.

(c) For purposes of this section, a demand responsive system, when viewed in its entirety, shall be deemed to provide equivalent service if the service available to individuals with disabilities, including individuals who use wheelchairs, is provided in the most integrated setting appropriate to the needs of the individual and is equivalent to the service provided other individuals with respect to the following service characteristics:

- (1) Response time;
- (2) Fares;
- (3) Geographic area of service;
- (4) Hours and days of service;
- (5) Restrictions or priorities based on trip purpose;
- (6) Availability of information and reservations capability; and
- (7) Any constraints on capacity or service availability.

(d) A public entity receiving FTA funds under section 18 or a public entity in a small urbanized area which receives FTA funds under Section 9 from a state administering agency rather than directly from FTA, which determines that its service to individuals with disabilities is equivalent to that provided other persons shall, before any procurement of an inaccessible vehicle, file with the appropriate state program office a certificate that it provides equivalent service meeting the standards of paragraph (c) of this section. Public entities operating demand responsive service receiving funds under any other section of the FT Act shall file the certificate with the appropriate FTA regional office. A public entity which does not receive FTA funds shall make such a certificate and retain it in its files, subject to inspection on request of FTA. All certificates under this paragraph may be made and filed in connection with a particular procurement or in advance of a procurement; however, no certificate shall be valid for more than one year. A copy of the required certificate is found in appendix C to this part.

(e) The waiver mechanism set forth in § 37.71(b)-(g) (unavailability of lifts) of this subpart shall also be available to public entities operating a demand responsive system for the general public.

Subpart E-Acquisition of Accessible Vehicles by Private Entities

§ 37.103 Purchase or lease of new non-rail vehicles by private entities primarily engaged in the business of transporting people.

(a) Application. This section applies to all acquisitions of new vehicles by private entities which are primarily engaged in the business of transporting people and whose operations affect commerce, in which a solicitation for the vehicle is made (except as provided in paragraph (d) of this section) after August 25, 1990.

(c) Demand responsive systems. If the entity operates a demand responsive system, and purchases or leases a new vehicle other than an automobile, a van with a seating capacity of less than eight persons (including the driver), it shall ensure that the vehicle is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, unless the system, when viewed in its entirety, meets the standard for equivalent service of § 37.105 of this part.

(d) Vans with a capacity of fewer than 8 persons. If the entity operates either a fixed route or demand responsive system, and purchases or leases a new van with a seating capacity of fewer than eight persons including the driver (the solicitation for the vehicle being made after February 25, 1992), the entity shall ensure that the vehicle is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, unless the system, when viewed in its entirety, meets the standard for equivalent service of § 37.105 of this part.

[56 FR 45621, Sept. 6, 1991, as amended at 76 FR 57936, Sept. 19, 2011]

§ 37.105 Equivalent service standard.

For purposes of §§ 37.101 and 37.103 of this part, a fixed route system or demand responsive system, when viewed in its entirety, shall be deemed to provide equivalent service if the service available to individuals with disabilities, including individuals who use wheelchairs, is provided in the most integrated setting appropriate to the needs of the individual and is equivalent to the service provided other individuals with respect to the following service characteristics:

- (a) (1) Schedules/headways (if the system is fixed route);
- (2) Response time (if the system is demand responsive);
- (b) Fares;
- (c) Geographic area of service;
- (d) Hours and days of service;
- (e) Availability of information;
- (f) Reservations capability (if the system is demand responsive);
- (g) Any constraints on capacity or service availability;
- (h) Restrictions priorities based on trip purpose (if the system is demand responsive).

Subpart G – Provision of Service

§ 37.161 Maintenance of accessible features: General.

(a) Public and private entities providing transportation services shall maintain in operative condition those features of facilities and vehicles that are required to make the vehicles and facilities readily accessible to and usable by individuals with disabilities. These features include, but are not limited to, lifts and other means of access to vehicles, securement devices, elevators, signage and systems to facilitate communications with persons with impaired vision or hearing.

(b) Accessibility features shall be repaired promptly if they are damaged or out of order. When an accessibility feature is out of order, the entity shall take reasonable steps to accommodate individuals with disabilities who would otherwise use the feature.

(c) This section does not prohibit isolated or temporary interruptions in service or access due to maintenance or repairs.

§ 37.165 Lift and securement use.

(a) This section applies to public and private entities.

(b) Except as provided in this section, individuals using wheelchairs shall be transported in the entity's vehicles or other conveyances.

(1) With respect to wheelchair/occupant combinations that are larger or heavier than those to which the design standards for vehicles and equipment of 49 CFR part 38 refer, the entity must carry the wheelchair and occupant if the lift and vehicle can accommodate the wheelchair and occupant. The entity may decline to carry a wheelchair/occupant if the combined weight exceeds that of the lift specifications or if carriage of the wheelchair is demonstrated to be inconsistent with legitimate safety requirements.

(2) The entity is not required to permit wheelchairs to ride in places other than designated securement locations in the vehicle, where such locations exist.

(c)(1) For vehicles complying with part 38 of this title, the entity shall use the securement system to secure wheelchairs as provided in that Part.

(2) For other vehicles transporting individuals who use wheelchairs, the entity shall provide and use a securement system to ensure that the wheelchair remains within the securement area.

(3) The entity may require that an individual permit his or her wheelchair to be secured.

(d) The entity may not deny transportation to a wheelchair or its user on the ground that the device cannot be secured or restrained satisfactorily by the vehicle's securement system.

(e) The entity may recommend to a user of a wheelchair that the individual transfer to a vehicle seat. The entity may not require the individual to transfer.

(f) Where necessary or upon request, the entity's personnel shall assist individuals with disabilities with the use of securement systems, ramps and lifts. If it is necessary for the personnel to leave their seats to provide this assistance, they shall do so.

(g) The entity shall permit individuals with disabilities who do not use wheelchairs, including standees, to use a vehicle's lift or ramp to enter the vehicle. Provided, that an entity is not required to permit such individuals to use a lift Model 141 manufactured by EEC, Inc. If the entity chooses not to allow such individuals to use such a lift, it shall clearly notify consumers of this fact by signage on the exterior of the vehicle (adjacent to and of equivalent size with the accessibility symbol).

[56 FR 45621, Sept. 6, 1991, as amended at 58 FR 63103, Nov. 30, 1993; 76 FR 57936, Sept. 19, 2011]

§ 37.167 Other service requirements.

(a) This section applies to public and private entities.

(d) The entity shall permit service animals to accompany individuals with disabilities in vehicles and facilities.

(e) The entity shall ensure that vehicle operators and other personnel make use of accessibility-related equipment or features required by part 38 of this title.

(f) The entity shall make available to individuals with disabilities adequate information concerning transportation services. This obligation includes making adequate communications capacity available, through accessible formats and technology, to enable users to obtain information and schedule service.

(g) The entity shall not refuse to permit a passenger who uses a lift to disembark from a vehicle at any designated stop, unless the lift cannot be deployed, the lift will be damaged if it is deployed, or temporary conditions at the stop, not under the control of the entity, preclude the safe use of the stop by all passengers.

(h) The entity shall not prohibit an individual with a disability from traveling with a respirator or portable oxygen supply, consistent with applicable Department of Transportation rules on the transportation of hazardous materials (49 CFR subtitle B, chapter 1, subchapter C).

(i) The entity shall ensure that adequate time is provided to allow individuals with disabilities to complete boarding or disembarking from the vehicle.

[56 FR 45621, Sept. 6, 1991, as amended at 58 FR 63103, Nov. 30, 1993]

§ 37.173 Training requirements.

Each public or private entity which operates a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

Part 38: Americans with Disabilities Act (ADA) Accessibility Specifications for Transportation Vehicles

Source: 56 FR 45756, Sept. 6, 1991, unless otherwise noted.

Subpart A—General

§ 38.1 Purpose.

This part provides minimum guidelines and requirements for accessibility standards in part 37 of this title for transportation vehicles required to be accessible by the Americans With Disabilities Act (ADA) of 1990 (42 U.S.C. 1201 et seq.).

§ 38.2 Equivalent facilitation.

Departures from particular technical and scoping requirements of these guidelines by use of other designs and technologies are permitted where the alternative designs and technologies used will provide substantially equivalent or greater access to and usability of the vehicle. Departures are to be considered on a case-by-case basis under procedures set forth in § 37.7 of this title.

§ 38.3 Definitions.

See § 37.3 of this title.

Subpart B—Buses, Vans and Systems

§ 38.21 General.

(a) New, used or remanufactured buses and vans (except over-the-road buses covered by subpart G of this part), to be considered accessible by regulations in part 37 of this title shall comply with the applicable provisions of this subpart.

(b) If portions of the vehicle are modified in a way that affects or could affect accessibility, each such portion shall comply, to the extent practicable, with the applicable provisions of this subpart. This provision does not require that inaccessible buses be retrofitted with lifts, ramps or other boarding devices.

§ 38.23 Mobility aid accessibility.

(a) General. All vehicles covered by this subpart shall provide a level-change mechanism or boarding device (e.g., lift or ramp) complying with paragraph (b) or (c) of this section and sufficient clearances to permit a wheelchair or other mobility aid user to reach a securement location. At least two securement locations and devices, complying with paragraph (d) of this section, shall be provided on vehicles in excess of 22 feet in length; at least one securement location and device, complying with paragraph (d) of this section, shall be provided on vehicles 22 feet in length or less.

(b) Vehicle Lift

(11) Boarding direction. The lift shall permit both inboard and outboard facing of wheelchair and mobility aid users.

(12) Use by standees. Lifts shall accommodate persons using walkers, crutches, canes or braces or who otherwise have difficulty using steps. The platform may be marked to indicate a preferred standing position.

(d) Securement Devices

(7) Seat belt and shoulder harness. For each wheelchair or mobility aid securement device provided, a passenger seat belt and shoulder harness, complying with all applicable provisions of part 571 of this title, shall also be provided for use by wheelchair or mobility aid users. Such seat belts and shoulder harnesses shall not be used in lieu of a device which secures the wheelchair or mobility aid itself.

§ 38.25 Doors, steps and thresholds.

(c) Door height. For vehicles in excess of 22 feet in length, the overhead clearance between the top of the door opening and the raised lift platform, or highest point of a ramp, shall be a minimum of 68 inches. For vehicles of 22 feet in length or less, the overhead clearance between the top of the door opening and the raised lift platform, or highest point of a ramp, shall be a minimum of 56 inches.

APPENDIX – A.2

DC Taxicab Service Improvement Amendment Act of 2012 (relevant sections)

Sec 4. Definitions

(c) Section 4 (D.C. Official Code § 50-303) is amended to read as follows: “Sec. 4. Definitions.
For the purposes of this act, the term:

- (1) “ADA” means the Americans with Disabilities Act of 1990, approved July 26, 1990 (104 Stat. 328; 42 U.S.C. § 12101 et seq.).
- (2) “Alternative fuel” means advanced fuels, which can be any materials or substances that can be used as fuels, other than conventional fuels such as fossil fuels, including biodiesel, compressed natural gas, electricity, and ethanol. The term “alternative fuel” shall also apply to hybrid vehicles that use alternative forms of power such as electricity.
- (3) “Capital City Plan” means the formal alphabetical and numerical pattern and layout of streets within the District’s 4 quadrants, the formal pattern and layout of avenues and circles within the District, and the formal system and pattern of addresses within the District.
- (4) “CNG” means compressed natural gas.
- (5) “CNG vehicle” means an automobile powered by compressed natural gas.
- (6) “Commission” means the District of Columbia Taxicab Commission established by section 5.
- (7) “Commissioner” means the Commissioner of the Department of Insurance, Securities, and Banking.
- (8) “Committee” means the Disability Taxicab Advisory Committee established by section 20f.
- (9) “DDOE” means the District Department of the Environment.
- (10) “Fund” means the Public Vehicles-for-Hire Consumer Service Fund established by section 20a.
- (11) “GPS” means Global Positioning Satellite.
- (12) “Hospitality industry” means any person or entity involved in the operation, management, support, or ownership of a restaurant, catering business, hotel business, conference business, travel business, tourism business, tour business, or tour guide business.
- (13) “Industry member” means a person experienced in the transportation or hospitality industry.
- (14) “Limousine” means a public vehicle-for-hire that operates exclusively through advanced registration, charges exclusively on the basis of time, and shall not accept street hails.
- (15) “Office” means the Office of Taxicabs established by section 13.
- (16) “Passenger surcharge” means a fee assessed to passengers for each public vehicle-for-hire ride in an amount not to exceed 50 cents.
- (17) “Public vehicle-for-hire” means:
 - (A) Any passenger motor vehicle operated in the District by an individual or any entity that is used for the transportation of passengers for hire, including as a taxicab, limousine, or sedan; or
 - (B) Any other private passenger motor vehicle that is used for the transportation of passengers for hire but is not operated on a schedule or between fixed termini and is operated exclusively in the District, or a vehicle licensed pursuant to D.C. Official Code § 47-2829, including taxicabs, limousines, and sedans.
- (18) “Public vehicle-for-hire industry” means all public vehicle-for-hire companies, associations, owners, and operators, or any person who, by virtue of employment or office, is directly involved in the provision of public vehicle-for-hire services within the District.
- (19) “Public vehicle inspection officer” means a Commission employee trained in the laws, rules, and regulations governing public vehicle-for-hire service to ensure the proper provision of service and to support safety through street enforcement efforts, including traffic stops of public vehicles-for-hire, pursuant to protocol prescribed by the Commission.

- (20) “Sedan-class vehicle” means a public vehicle-for-hire that operates exclusively through dispatch, charges exclusively on the basis of time and distance, and shall not accept street hails.
- (21) “Taxicab” means a public passenger vehicle-for-hire that may be hired by dispatch or hailed on the street and for which the fare charged is calculated by a Commission-approved meter with uniform rates determined by the Commission.
- (22) “Taxicab association” means a group of taxicab owners organized for the purpose of engaging in the business of taxicab transportation for common benefits regarding operation, logo or insignia. An association must have a minimum of 20 taxicabs having a uniform logo or insignia and having unified control by ownership or by association.
- (23) “Taxicab company” means any person, partnership, or corporation engaging in the business of owning and operating a fleet or fleets of taxicabs having a uniform logo or insignia. A company must have a minimum of 20 taxicabs having a uniform logo or insignia and having unified control by ownership or by the company.
- (24) “Taxicab fleet” means a group of 20 or more taxicabs having a uniform logo or insignia and having unified control by ownership or by association.
- (25) “Taxicab industry” means all taxicab companies, associations, owners, and operators, or any person who by virtue of employment or office is directly involved in the provision of taxicab services within the District.
- (26) “Taxicab operator” means a person operating or licensed to operate a taxicab in the District of Columbia.
- (27) “Taxicab owner” means a person, corporation, partnership, or association that holds the legal title to a taxicab that is required to be registered in the District. If a taxicab is the subject of an agreement for the conditional sale or lease with right of purchase upon performance of the condition stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or if a mortgagor of a taxicab is entitled to possession, the conditional vendee, lessee, or mortgagor shall be considered the owner for the purpose of this act.
- (29) “Taxicab service” means passenger transportation service originating in the District in which the passenger directs the points between which the service is to be provided, the service is provided at a time chosen by the passenger, and the fare and fees for which are prescribed by the Commission.
- (30) “Underserved area” means a designated zone, as determined by the Commission, with an established need for greater taxicab service.
- (31) “Washington Metropolitan Area” means the area encompassed by the District; Montgomery County, Prince George’s 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.
- (32) “Wheelchair-accessible vehicle” means a vehicle compliant with the, ADA that accommodates a passenger using a wheelchair or other personal mobility device who needs a ramp or lift to enter or exit the vehicle. The vehicle must comply with the provisions of 49 C.F.R. Part 38.1 – 38.39.”.

Sec. 2. 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.), is amended as follows:

(b) Section 3 (D.C. Official Code § 50-302 [*Regulation of Taxicabs, Purposes*]) is amended as follows:

(1) Subsection (a) is amended as follows:

(H) Provide specific policies and programs to increase wheelchair-accessible taxicab service to the disabled throughout the District;”.

Sec. 6. Section 47-2829 of the District of Columbia Official Code is amended as follows:

(B) Subparagraph (A) is amended to read as follows:

(A) Completion of the primary public passenger vehicle-for-hire license training course as established by the District of Columbia Taxicab Commission for a fee of no less than \$100 per person. Upon completion of the course, the applicant shall be issued a certificate of completion that shall include the date of completion and shall be presented to the Office of Taxicabs with the application for a license. Before issuing the certificate, each person shall have passed an examination consisting of the subject matters taught in the course and an

evaluation of the person's English communication skills. At a minimum, the training course shall be designed to develop the applicant's knowledge of the following:

(vii) The legal requirements that apply to transportation of persons with disabilities, including providing equal access to transportation and complying with the Americans with Disabilities Act of 1990, approved July 26, 1990 (104 Stat. 328; 42 U.S.C. § 12101 et seq.)("ADA")."

(C) A new subparagraph (A-i) is added to read as follows:

(A-i) All courses for operators of wheelchair-accessible taxicabs shall provide training as to:

(i) The legal requirements that apply to transportation of persons with disabilities, including providing equal access to transportation and complying with the ADA;

(ii) Passenger assistance techniques, including a review of various disabilities, hands-on demonstrations of how to assist those with disabilities, mobility equipment training (including familiarity with lift and ramp operations and various types of wheelchairs and personal mobility devices), and safety procedures;

(iii) Training with an actual person using a wheelchair or personal mobility device;

(iv) Sensitivity training, including customer service and conflict resolution techniques; and

(v) Overall training in passenger relations and courtesy."

Sec. 20a. Public Vehicles-for-Hire Consumer Service Fund.

(2) Subsections (a) and (b) are amended to read as follows:

(a) There is established within the District of Columbia Treasury a fiduciary fund to be known as the Public Vehicles-for-Hire Consumer Service Fund. The Fund shall be a revolving, segregated, nonlapsing fund administered by the Commission. The Fund shall consist of the following:

(1) Funds collected from a passenger surcharge;

(2) Funds collected by the Commission from the issuance and renewal of a public vehicle-for-hire license pursuant to D.C. Official Code § 47-2829, including those held in miscellaneous trust funds by the Commission and the Office of the People's Counsel before June 23, 1987, pursuant to section 8, par. 42 of An Act Making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1914, and for other purposes, approved March 4, 1913 (37 Stat. 984; D.C. Official Code § 34-912(a)). These funds shall be accounted for under procedures established pursuant to subtitle V of Chapter 3 of Title 47, or any other applicable law;

(3) Funds collected by the Commission from the Department of Motor Vehicles through the Out-Of-State Vehicle Registration Special Fund, pursuant to section 3a of the District of Columbia Revenue Act of 1937, effective March 26, 2008 (D.C. Law 17-130; D.C. Official Code § 50-1501.03a); and

(4) All funds collected by the Commission pursuant to subsections (c) and (d) of this section.

(b)(1) The funds deposited into the Fund and allocated to the Commission:

(A) Shall be used to pay the costs incurred by the Commission, including operating and administering programs, investigations, proceedings, and inspections, administering the Fund, and improving the District's public vehicles-for-hire industry.

(B) May be used to provide grants, loans, incentives, or other financial assistance to owners of licensed taxicabs legally operating and incorporated in the District to offset the cost of acquiring, maintaining, and operating wheelchair-accessible vehicles;

(C) May be used to establish a program to provide a taxicab fare discount for low-income senior citizens aged 65 years and older and persons with disabilities; and

(D) May be used to provide grants, loans, incentives, or other financial assistance to owners of licensed taxicabs legally operating and incorporated in the District to incentivize the purchase and use of alternative-fuel vehicles, directing licensed taxicabs to underserved areas, and to offset costs associated with meeting the mandates of this act, as established by rulemaking.

(2) Nothing in this subsection shall affect any requirements

Sec. 20f. Accessible taxicabs

(a) Taxicab service in the District shall be accessible to the disabled and in compliance with the ADA and the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; Repeal § 50-324

(b)(1) Within 90 days of the effective date of the Amendment Act, the Commission shall establish a Disability Taxicab Advisory Committee to advise the Commission on how to make taxicab service in the District more accessible to the disabled.

(2)

(A) The Committee shall include representatives from the following:

- (i) The Office of Disability Rights;
- (ii) The Office of Human Rights;
- (iii) The Commission on Persons with Disabilities;
- (iv) The disability advocacy community;
- (v) Taxicab companies, associations, or operators;
- (vi) The Office of the Chief Financial Officer, when appropriate; and
- (vii) The Commission.

(B) At least half of the Committee shall be comprised of members or representatives of the disability advocacy community.

(3) On or before February 15, 2013, the Committee shall transmit to the Mayor and to the Council a comprehensive report and recommendations on the following:

- (A) The legal requirements for providing accessible taxicab service;
- (B) The need for accessible taxicab service in the District;
- (C) How other jurisdictions are providing accessible taxicab service;
- (D) A timetable and plan to rapidly increase the number of accessible taxicabs to meet the need of accessible taxicabs in the District;
- (E) A description of the types of grants, loans, tax credits, and other financial assistance and incentives that could be provided to taxicab companies, associations, and operators to offset the cost of purchasing, retrofitting, maintaining, and operating accessible taxicabs;
- (F) A recommended package of grants, loans, tax credits, or other types of financial assistance and incentives that could be provided to taxicab companies, associations, and operators to offset the cost of purchasing, retrofitting, maintaining, and operating accessible taxicabs;
- (G) The means by which the District can achieve a fleet of 100% wheelchair-accessible taxicabs; and
- (H) A proposed timeline and plan, including an analysis of the feasibility, costs, and benefits, for requiring all new taxicabs to be wheelchair-accessible when replacing old taxicabs that are removed from service.

(4) On or before September 30, 2013, and each year thereafter, the Committee shall transmit to the Mayor and to the Council a report on the accessibility of taxicab service in the District and how it can be further improved.

(c)(1) Each taxicab company with 20 or more taxicabs in its fleet as of July 1, 2012, or anytime thereafter, shall dedicate a portion of its taxi fleet as follows:

(A) At least 6% of each taxicab fleet shall be wheelchair-accessible by December 31, 2014.

(B) At least 12% of each taxicab fleet shall be wheelchair-accessible by December 31, 2016.

(C) At least 20% of each taxicab fleet shall be wheelchair-accessible by December 31, 2018.

(D) Based on the recommendations of the Committee, which shall be given great weight, the Commission shall increase the requirements in subparagraphs (A), (B), and (C) of this paragraph to ensure that the District's taxicab system meets the legal requirements and need for accessible taxicab service.

(2) The Commission may withhold the renewal of licenses of taxicab companies or associations that do not meet the requirements of this subsection.

(3) With the Committee and the Chief Financial Officer, the Commission shall develop a program to provide grants, loans, and other types of financial assistance and incentives to applicants and owners of licensed taxicabs to offset the cost of buying, retrofitting, maintaining, and operating a vehicle for use as a wheelchair-accessible taxicab.

(d) The Commission shall seek to partner with the Washington Metropolitan Area Transit Authority, the Office of the State Superintendent of Education, and any other governmental entity to provide accessible transportation services using taxicabs, and shall report to the Council within 18 months of the effective date of the Amendment Act on the status of such agreements and the estimated cost savings from such agreements.

(e) All drivers who operate wheelchair-accessible taxicabs shall receive training in how to properly use the equipment and work with disabled passengers. The training shall be coordinated through the Commission or taxicab companies.

(f) Wheelchair-accessible taxicabs shall:

(1) Accommodate wheelchair and personal mobility devices up to 30 inches in width;

(2) Have rear-entry or side-entry ramps or lifts that enable a passenger and driver to easily and comfortably gain access to the interior of the vehicle upon entry and exterior upon drop off;

(3) Have safety devices to secure the wheelchair or personal mobility device to the vehicle and protect the passenger; and

(4) Display the international wheelchair insignia or other insignia approved by the Commission that identifies the vehicle as a wheelchair-accessible vehicle in a minimum of 2 prominent locations on the exterior of the vehicle.

(g)(1) Except as provided in paragraph (2) of this subsection, every licensed taxicab operator accepting fares shall:

(A) Stop and inquire of a prospective passenger in a wheelchair or personal mobility device attempting to street-hail a taxicab whether the passenger wishes to ride in that taxicab or, if the taxicab operator is not driving a wheelchair-accessible taxicab and is affiliated with a

taxicab company or association that offers such services, wishes to have the taxicab operator contact a dispatch service to send a wheelchair-accessible taxicab; and

(B) Grant priority to requests for service from passengers who use wheelchairs, and once dispatched to a call from a passenger using a wheelchair shall not accept any other fare while traveling to the fare; provided, that in the absence of a request for service to a passenger who uses a wheelchair, a wheelchair-accessible taxicab operator may transport any person.

(2) A taxicab operator shall not be subject to the requirements of this subsection while transporting a fare or responding to a dispatched call for service.

(h) Any individual, company, or affiliation that owns, leases, rents, or operates wheelchair-accessible taxicabs subsidized by the District shall:

(1) Operate wheelchair-accessible taxicabs equipped with dispatch technology and maintain the capacity to communicate with every wheelchair-accessible taxicab operating under its service;

(2) Grant priority to requests for service from passengers who use wheelchairs, and once dispatched to a call from a passenger using a wheelchair, shall not accept any other fare while traveling to the fare; provided, that in the absence of a request for service to a passenger who uses a wheelchair, a wheelchair-accessible taxicab operator may transport any person;

(3) Promptly dispatch a wheelchair-accessible taxicab in response to a wheelchair-accessible taxicab service request. If a wheelchair-accessible vehicle cannot be dispatched within 20 minutes, dispatch shall call another company with wheelchair-accessible vehicles to handle the request, and contact the customer with the name and telephone number of the dispatch service for the available wheelchair-accessible taxicab. If no wheelchair-accessible taxicabs are currently available to respond to a customer's request, dispatch shall notify the customer and record the customer's name and phone number and the names of the other dispatch services contacted; and

(4) Record all requests for wheelchair-accessible taxicab service, noting the date and time of the request for service, the service address, the vehicle number dispatched, and the time that the wheelchair-accessible taxicab was dispatched to respond to the call.

(i) A taxicab operator of a wheelchair-accessible taxicab shall not deny a dispatch request for wheelchair accessible service unless the taxicab is unavailable to provide service due to already being engaged. The Commission shall enforce this provision through rulemaking.

APPENDIX – A.3

DC Municipal Regulations

Title 4: Human Rights and Relations

Chapter 7: Private Complaints Alleging Unlawful Discriminatory Practices

700 SCOPE

700.1 The provisions of this chapter shall apply to all employers, places of public accommodation, educational institutions, and housing and commercial space subject to the D.C. Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1401.01 et seq.).

701 COVERAGE

The provisions of this chapter shall govern the processing of any matters involving discrimination on the grounds of race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, status as a victim of an intrafamily offense, and place of residence or business.

701.2 Nothing in this chapter shall be construed to supersede any federal or District of Columbia law, or to invalidate any proceedings commenced under the authority of any prior regulations.

702 JURISDICTION

702.1 The Office has the statutory authority to receive, investigate, and seek an appropriate remedy for allegations of conduct prohibited by the Act and which has caused harm to a person or persons protected by the Act; provided, that the following requirements are met:

- (a) The complaint is filed with the Office within one year of the occurrence of the unlawful discriminatory practice, or the discovery thereof, except as may be modified in accordance with procedures established pursuant to section 303 of the Act (D.C. Official Code § 2-1403.03);
- (b) The alleged unlawful discriminatory practice occurred within the District of Columbia; and
- (c) The respondent is identified as follows:
 - (1) Maintaining a presence within the District of Columbia, including that of a registered agent;
 - (2) Substantially engaged in doing business within the District of Columbia; or
 - (3) Operating an enterprise which is subject to licensing by the District of
 - (4) Columbia government.

APPENDIX – A.4

DC Code, DC Human Rights Law

Title 2: Government Administration

Chapter 14: Human Rights

Unit A: Human Rights Law,

Subchapter II: Prohibited Acts of Discrimination

§ 2-1401.01. Intent of Council

It is the intent of the Council of the District of Columbia, in enacting this chapter, to secure an end in the District of Columbia to discrimination for any reason other than that of individual merit, including, but not limited to, discrimination by reason of race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, status as a victim of an intrafamily offense, and place of residence or business.

§ 2-1402.01. General.

Every individual shall have an equal opportunity to participate fully in the economic, cultural and intellectual life of the District and to have an equal opportunity to participate in all aspects of life, including, but not limited to, in employment, in places of public accommodation, resort or amusement, in educational institutions, in public service, and in housing and commercial space accommodations.

Part D: Public Accommodations

§ 2-1402.31. Prohibitions

(a) General. -- It shall be an unlawful discriminatory practice to do any of the following acts, wholly or partially for a discriminatory reason based on the actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, genetic information, disability, matriculation, political affiliation, source of income, or place of residence or business of any individual:

(1) To deny, directly or indirectly, any person the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of any place of public accommodations;

(2) To print, circulate, post, or mail, or otherwise cause, directly or indirectly, to be published a statement, advertisement, or sign which indicates that the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation will be unlawfully refused, withheld from or denied an individual; or that an individual's patronage of, or presence at, a place of public accommodation is objectionable, unwelcome, unacceptable, or undesirable.

DC CODE, DC Taxicabs and Public Vehicles for Hire Discrimination Law

Title: 31 Taxicabs and Public Vehicles for Hire

Chapter: 31-5 Taxicab Companies, Associations and Fleets Discrimination Prohibited

508.1 No taxicab company, association, or fleet, or its agent, shall discriminate based upon race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, status as a victim of an intra-family offense, or place of residence or business.

508.2 Discriminatory conduct may include, but is not limited to the following:

- (a) Not picking up a passenger on the basis of any protected characteristic or trait, including an individual 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; or
- (d) Refusing calls or street hails beginning or ending in specific geographic areas of the District

508.3 Discrimination based on a disability may include refusing to assist in the transportation of a person using a Service Animal or Comfort Animal because of an undocumented personal allergic reaction to animals or potential allergic reactions of future customers.

SOURCE: Final Rulemaking published at 37 DCR 3595, 3601 (June 1, 1990); as amended by Final Rulemaking published at 59 DCR 8549, 8557 (July 20, 2012).

APPENDIX – B.1

Table B.2: rollDC Trips Data March 2010-October 2012

Taxi Company	Trips for Passengers Using Wheelchairs				
	Completed	Cancels & No-Shows	Transferred	Could Not Serve	Trips, Sample Period
March - June 2010					
Royal	59%	24%	14%	3%	37
Yellow	66%	33%	1%	0%	130
July - September 2010					
Royal	91%	5%	5%	0%	64
Yellow	66%	31%	1%	2%	99
October - December 2010					
Royal	98%	2%	0%	0%	50
Yellow	77%	18%	3%	2%	125
January - March 2011					
Royal	90%	8%	1%	0%	71
Yellow	85%	14%	0%	1%	127
April - June 2011					
Royal	86%	10%	4%	0%	69
Yellow	84%	14%	1%	0%	152
July - Sept 2011					
Royal	94%	6%	0%	0%	90
Yellow	86%	14%	0%	1%	177
October - December 2011					
Royal	83%	8%	8%	1%	137
Yellow	86%	14%	0%	0%	189
<i>Begin Sampled Data Collection One Month Per Quarter</i>					
January 2012					
Royal	33	0	3	0	36
Yellow	54	5	2	0	61
April 2012					
Royal	34	6	1	0	41
Yellow	44	3	0	0	47
July 2012 (Royal) and August 2012 (Yellow)					
Royal	23	9	0	0	32
Yellow	53	7	1	0	61
October 2012					
Royal	50	18	0	0	68
Yellow	52	9	0	0	61

Source: RollDC Data: "Wheelchair Accessible Taxi Pilot – Washington DC," 2012.

APPENDIX – B.2

Table B.3: rollDC Response Time

Response Time, Sampled Data								
Requested Time to Taxi Arrival Time, in Minutes								
	"ASAP" Trips				Pre-Booked Trips			
	Average		Range		Average		Range	
	Royal	Yellow	Royal	Yellow	Royal	Yellow	Royal	Yellow
2010								
March	na	0:32 (5 trips)	na	0:19 - 1:20	na	-0:03 (7 trips)	na	-0:13 - 0:12
April	0:36 (3 trips)	0:19 (6 trips)	0:23 - 1:00	0:07 - 0:37	-0:12 (2 trips)	-0:10 (3 trips)	-0:10 - -0:15	-0:07 - -0:15
May	0:33 (6 trips)	0:18 (22 trips)	0:17 - 0:57	0:04 - 0:42	0:00 (2 trips)	0:01 (16 trips)	-0:05 - -0:15	-0:11 - 0:22
June	0:23 (5 trips)	0:25 (13 trips)	0:06 - 0:46	0:09 - 0:52	no prebooked	0:15 (13 trips)	-	0:00 - 0:54
July	0:31(13 trips)	0:27 (5 trips)	0:06 - 1:11	0:07 - 0:47	0:00 (1 trip)	0:05 (3 trips)	-	0:00 - 0:15
August	0:27 (13 trips)	0:21 (21 trips)	0:05 - 1:54	0:02 - 1:14	0:00 (3 trips)	-0:01 (7 trips)	-	-0:12 - 0:19
September	0:28 (24 trips)	0:17 (14 trips)	0:08 - 2:47	0:04 - 0:32	0:00 (5 trips)	-0:02 (15 trips)	-	-0:25 - 0:32
October	0:35 (20 trips)	0:19 (19 trips)	0:13 - 1:07	0:03 - 0:51	0:00 (4 trips)	0:02 (11 trips)	-	-0:15 - 0:20
November	0:33 (12 trips)	0:19 (20 trips)	0:08 - 1:10	0:02 - 0:45	no prebooked	0:01 (10 trips)	-	-0:11 - 0:22
December	0:41 (9 trips)	0:22 (22 trips)	0:12 - 2:14	0:06 - 1:03	-0:17 (4 trips)	0:03 (11 trips)	-0:26 - -0:10	-0:21 - 0:34
2011								
January	0:36 (20 trips)	0:20 (27 trips)	0:05 - 2:53	0:03 - 0:53	-0:14 (3 trips)	-0:02 (15 trips)	-0:27 - 0:00	-0:18 - 0:39
February	0:38 (18 trips)	0:21 (27 trips)	0:09 - 1:54	0:07 - 0:51	0:00 (1 trip)	-0:03 (13 trips)	-	-0:18 - 0:49
March	0:35 (12 trips)	0:20 (19 trips)	0:10 - 1:25	0:06 - 0:52	incomplete data (7 trips)	-0:07 (7 trips)	-	-0:17 - -0:02
April	0:38 (18 trips)	0:22 (27 trips)	0:08 - 1:57	0:04 - 0:50	1:15 (3 trips)	-0:08 (11 trips)	0:55 - 1:40	-0:40 - 0:13
May	0:41 (12 trips)	0:26 (25 trips)	0:10 - 2:10	0:01 - 1:07	incomplete data (8 trips)	0:00 (25 trips)	-	-0:19 - 0:33
June	0:42 (12 trips)	0:23 (19 trips)	0:04 - 2:39	0:06 - 0:57	-0:01 (9 trips)	-0:01 (21 trips)	-0:05 - 0:10	-0:29 - 0:25
July	0:21 (14 trips)	0:20 (25 trips)	0:01 - 3:24	0:07 - 0:46	-0:07 (10 trips)	-0:02 (30 trips)	-0:15 - 0:10	-0:25 - 0:25
August	0:23 (21 trips)	0:19 (20 trips)	0:06 - 1:42	0:01 - 0:49	incomplete data (8 trips)	-0:02 (23 trips)	-	-0:21 - 0:29
September	0:20 (30 trips)	0:20 (24 trips)	0:07 - 1:18	0:04 - 0:49	-0:04 (2 trips)	0:05 (29 trips)	-0:10 - 0:01	-0:18 - 0:56
October	0:36 (28 trips)	0:26 (31 trips)	0:12 - 1:36	0:04 - 1:25	-0:06 (10 trips)	0:06 (33 trips)	-0:55 - -0:02	-0:23 - 0:52
November	0:23 (40 trips)	0:23 (27 trips)	0:05 - 0:46	0:04 - 0:52	-0:09 (4 trips)	0:06 (25 trips)	-0:15 - -0:06	-0:21 - 1:34
December	0:41 (19 trips)	0:22 (21 trips)	0:10 - 2:18	0:03 - 1:14	-0:08 (8 trips)	-0:03 (25 trips)	-0:15 - -0:04	-0:17 - 0:56
2012	Begin Sampled Data Collection One Month Per Quarter							
January	0:25 (23 trips)	0:24 (26 trips)	0:02 - 1:23	0:06 - 0:52	-0:02 (10 trips)	0:05 (28 trips)	-0:08 - 0:00	-0:16 - 1:00
April	--	0:17 (15 trips)	--	0:10 - 1:00	--	0:01 (28 trips)	--	-0:33 - 0:36
July-R/Aug-Y	0:22 (14 trips)	0:26 (19 trips)	0:04 - 0:49	0:05 - 1:09	-0:08 (8 trips)	-0:01 (34 trips)	-0:15 - 0:06	-0:19 - 0:31
October	0:24 (27 trips)	0:27 (24 trips)	0:04 - 1:25	0:03 - 1:06	-0:02 (22 trips)	0:01 (28 trips)	-0:17 - 0:21	-0:20 - 0:19

Source: RollDC Data: "Wheelchair Accessible Taxi Pilot – Washington DC," 2012.

APPENDIX – B.3

Table B.4: rollDC Trips for Riders Using Wheelchairs as Percent of All Rider Trips on Accessible Taxis

2010	Accessible Taxis in Service	W-C Trips	All Trips	% W-C Trips
<i>February</i>	11	49	2,480	2.0%
<i>March</i>	14	104	3,192	3.3%
<i>April</i>	14	113	3,833	2.9%
<i>May</i>	15	186	4,023	4.6%
<i>June</i>	14	140	3,484	4.0%
<i>July</i>	19	200	4,466	4.5%
<i>August</i>	18	160	4,825	3.3%
<i>Sept.</i>	18	205	5,316	3.9%
<i>Oct.</i>	19	173	5,354	3.2%
<i>Nov.</i>	19	230	5,126	4.5%
<i>Dec.</i>	19	287	5,558	5.2%
2011				
<i>January</i>	19	261	5,448	4.8%
<i>February</i>	19	264	4,975	5.3%
<i>March</i>	18	349	5,409	6.5%
<i>April</i>	19	262	5,211	5.0%
<i>May</i>	18	364	5,384	6.8%
<i>June</i>	19	352	5,375	6.5%
<i>July</i>	19	430	5,812	7.4%
<i>August</i>	19	426	5,507	7.7%
<i>Sept.</i>	19	371	5,858	6.3%
<i>Oct.</i>	19	390	6,758	5.8%
<i>Nov.</i>	19	423	6,277	6.7%
<i>Dec.</i>	19	352	6,085	5.8%
2012 <i>Begin Sampled Data Collection One Month per Quarter</i>				
<i>January</i>	19	415	5,462	7.6%
<i>April</i>	19	421	6,673	6.3%
<i>July</i>	20	474	5,755	8.2%
<i>October</i>	20	499	5,331	9.4%

Source: RollDC Data: "Wheelchair Accessible Taxi Pilot – Washington DC," 2012.

APPENDIX – G

Table G.1: Accessible Taxi Projections

According to Section 20f(c) of the DC Taxi Act of 2012, companies or associations that own 20 or more taxis must include an increasing percentage of accessible taxis in their fleet: six percent by end of 2014, 12 percent by end of 2016 and 20 percent by end of 2017. Included below are the numbers of accessible cabs in the District based on those projections, as well as the proposed increase to 40 percent.

Taxi Company or Association	# Cabs Owned	6% in 2014	12% in 2016	20% in 2018	Proposed: 40% in 2017
YELLOW CAB CO.	141	8	17	28	56
DIAL	132	8	16	26	53
SILVER	113	7	14	23	45
EMPIRE	81	5	10	16	32
MERITT CAB ASSOCIATION	57	3	7	11	23
IMPERIAL CAB COMPANY	47	3	6	9	19
ROCK CREEK	45	3	5	9	18
MIDWAY	44	3	5	9	18
DC FLYER	40	2	5	8	16
DIAMOND CAB	40	2	5	8	16
FAIRWAY CAB ASSOCIATION	33	2	4	7	13
VIP CAB	31	2	4	6	12
COLUMBIA CAB ASSOCIATION	29	2	3	6	12
GOLD STAR CAB COMPANY	28	2	3	6	11
IRON CAB COMPANY	28	2	3	6	11
ELITE CAB	26	2	3	5	10
PATRIOT CAB COMPANY	26	2	3	5	10
ESSENCE CAB COMPANY	25	2	3	5	10
ICON CAB COMPANY	25	2	3	5	10
PRESIDENTIAL CAB COMPANY	25	2	3	5	10
CLASSIC CAB	23	1	3	5	9
HILLTOP CAB ASSOCIATION	22	1	3	4	9
NATIONAL CAB	22	1	3	4	9
DYNASTY	22	1	3	4	9
RITEWAY CAB ASSOCIATION	22	1	3	4	9
BAY CAB COMPANY	22	1	3	4	9
TIME CAB COMPANY	21	1	3	4	8
Total	1,170	70	140	234	468

Source: Freedom of Information Act Request to DCTC, provided November 2013.

APPENDIX – H

Additional recommendations on administrative improvements

A program should be set up that would include the designing of an intake process with measureable indicators and valuable data trend sets established. This process will also include the frequency for the collection of data as well as who is responsible for this work. This committee strongly suggests the hiring of additional staff, preferably administrative staff members at DCTC. There should be two staff members, one each at DCTC and DMV, responsible for collecting data, providing database management, writing reports, and presenting information to leadership.

The reporting of this information should take place quarterly. In the first seven years of this process, data-based assessments on the process should be provided in each report. The report must provide input on the process including strengths, vulnerabilities, risks, data integrity and the collection process. The data sets or indicators should be established by DCTC and DMV, with each department having the ability to keep their information separate for their individual data analysis needs. Data that should be collected include but is not limited to the number of licensed taxis, make, model and age of the car, mileage on the speedometer of the car, as well as all the data sets established in the Payment Service Providers and Digital Dispatch Systems Requirement in the DC Taxi Law.^{cxxxii}

These reports will ensure a data baseline that anchors any ongoing performance measurements and provide information for ROI analysis. The District is responsible for accountability and enforcement of this program, and these reports will provide documentation for future policy or regulation decisions as well as any new funding streams.

The quarterly reports should also provide the data sets in a number and chart format as well as a narrative for multiple analysis and distribution of information. These reports should be given to and analyzed by the DCTC Commissioner, DMV Director, the Mayor's office, the City Council Transportation Committee and DCTC Disability Advisory Committee. The information provided in these reports will assist the District with the management of providing accessible taxis for the community. This report should be part of the DCTC annual budget report presented to the DC Council and Mayor's office.

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ABOUT THE DC TAXICAB COMMISSION DISABILITY ADVISORY COMMITTEE

On July 10, 2012, the District of Columbia City Council passed the DC Taxicab Service Improvement Amendment Act of 2012 (DC Taxi Act) to improve taxi service in the District. Section 20f of the DC Taxi Act addresses accessibility, requiring the DC Taxicab Commission (DCTC) to establish a Disability Taxicab Advisory Committee (the Committee) to advise the Commission on how to make taxicab service in the District more accessible to the people with disabilities. The Committee was mandated to transmit to the Mayor and to the Council a comprehensive report and recommendations on a range of subjects regarding accessible taxi service.

The full Committee – which has met 13 times between January 2013 and February 2014 – is a compilation of representatives from the DC Office of Disability Rights; the Office of Human Rights; the Commission on Persons with Disabilities; DC taxicab companies, associations, and operators; the Office of the Chief Financial Officer; disability advocates; and the DC Taxicab Commission. Half of the Committee is comprised of members or representatives of the disability advocacy community.

The Committee convened as a whole and also met as subcommittees in the areas of (A) The legal requirements for providing accessible taxicab service, (B) The need for accessible taxicab service in the District, (C) How other jurisdictions are providing accessible taxicab service, (D) A timetable and plan to rapidly increase the number of accessible taxicabs to meet the need of accessible taxicabs in the District; (E) A description of the types of grants, loans, tax credits, and other financial assistance and incentives that could be provided to taxicab companies, associations, and operators to offset the cost of purchasing, retrofitting, maintaining, and operating accessible taxicabs; (F) A recommended package of grants, loans, tax credits, or other types of financial assistance and incentives that could be provided to taxicab companies, associations, and operators to offset the cost of purchasing, retrofitting, maintaining, and operating accessible taxicabs; (G) The means by which the District can achieve a fleet of 100% wheelchair-accessible taxicabs; and (H) A proposed timeline and plan, including an analysis of the feasibility, costs, and benefits, for requiring all new taxicabs to be wheelchair-accessible when replacing old taxicabs that are removed from service.

The Committee submitted a preliminary report of sections A-C in June 2013, and a comprehensive report in February 2014. The Committee will continue to meet as it is mandated to transmit to the Mayor and to the DC Council an annual report on the accessibility of taxicab service in the District and how it can be further improved. The Committee seeks support and resources that will allow disability advocates, taxi industry representatives, District officials to learn from each other and work together to achieve a 100 percent accessible and inclusive taxi fleet.

The Disability Advisory Committee thanks the Mayor, the DC Council, and the DCTC for acknowledging the need for accessible taxi service in the District.

MEMBERS OF THE DC TAXICAB COMMISSION DISABILITY ADVISORY COMMITTEE

DC Taxicab Commission Representatives

Anthony Muhammad, Commissioner, DC Taxicab Commission, Committee Chairman*

DC City Offices and Agency Representatives

Dara Baldwin, ADA Compliance Specialist (Human Services), DC Office of Disability Rights

Christiaan Blake, Director, Office of ADA Policy and Planning, Washington Metropolitan Area Transit Authority

Elliot Imse, Director of Policy and Communications, DC Office of Human Rights

Susie McFadden-Resper, ADA Compliance Specialist (Public Works), DC Office of Disability Rights

Christina Mitchell, DC Commission on Persons with Disabilities

Derek Orr, Director, DC Office of Disability Rights

Elizabeth Pollitt Paisner, Senior Policy Analyst, Office of the Chief Financial Officer

Kyle Roll, Intern, DC Office of Disability Rights*

DC Taxicab Industry Representatives

Negede Abebe, Small Business Association of DC Taxicabs*

Haimanot Bizuayehu, United Ventures Consortium*

Matthew Brooks, Royal Cab*

Saleem Abdul-Mateen, Royal Cab

Carolyn Robinson, DC Professional Taxicab Drivers Association

Roy Spooner, Yellow Cab

DC Disability Advocacy Community Representatives

Georges Aguehoude, DC Center for Independent Living, Inc.

Dennis Butler, University Legal Services

Robert Coward, DC ADAPT

Dana Fink, Institute for Educational Leadership

Jonathan Martinis, Quality Trust for Individuals with Disabilities

Mat McCollough, DC Developmental Disabilities Council

Rebecca (Becky) Ogle, Political Consultant *

Lee Perselay, Disability Counsel, Senator Tom Harkin

Lon Rosenman, Hearing Loss Association of DC

Anais Sensiba, DC National Lawyers Guild

Richard Simms, DC Center for Independent Living, Inc

Carol Tyson, United Spinal Association, Committee Vice-Chair

Committee Observers

Kelly Buckland, Executive Director, National Council on Independent Living

Anthony J. Catalino, Legislative Counsel, Office of Councilmember Mary M. Cheh

Neville Waters, Public Information Officer, DC Taxicab Commission

Ian Watlington, National Disability Rights Network*

*Participated in discussions and drafting of the preliminary report.

February 20, 2014
Via Electronic Mail

Chairman Ron M. Linton
District of Columbia Taxicab Commission
2041 Martin Luther King Jr Avenue SE, Suite 204
Washington, DC 20020

Dear Chairman Linton:

Please find attached a copy of an addendum to the DC Taxicab Commission Disability Advisory Committee's Comprehensive Report on Accessible Taxicab Service in the District.

Please include this addendum which reflects the joint opinion of Royal Cab and Yellow Cab Co. of DC Inc., current wheelchair accessibility service providers, with your submission of the final report to the DC City Administrator so that it may be distributed to the Mayor and City Council.

Yellow and Royal Cab will continue to participate in the Disability Advisory Committee as it meets monthly to fulfill its mandate to transmit to the Mayor and to the DC Council an annual report on the accessibility of taxicab service in the District and how it can be further improved.

Sincerely,

Roy Spooner,
General Manager
Yellow Cab Co. of DC Inc.

CC: Jeff Schaeffer, Royal Cab Co.

Encl.: Disability Advisory Committee – Royal and Yellow Final Draft Comments.doc

- 1) Executive Summary, Page ii, Recommendation G is not a consensus recommendation which should be noted in the report.**

G. Transitioning to a Fleet of 100 Percent Accessible Taxis

Many members of the Committee recommended a long-term goal of a 100 percent accessible taxi fleet in the District. A 100 percent accessible taxi fleet allows for an inclusive, “universal vehicle design” that meets all of the current US ADA standards is not in production at the present time. The taxicab industry and wheelchair accessible providers must be involved in the product design and development of standards for any future universal design vehicle.

- 2) Please add this paragraph to “Industry Support and Involvement” Page 43**

The Committee included a limited number of taxi industry representatives, a total of three full members. Two of the industry committee members included representatives from the two companies that currently provide wheelchair accessible cabs, Yellow Cab and Royal Cab. These taxi company representatives are highly supportive of the inclusion and expansion of wheelchair accessible cabs in D.C. taxi fleets and agree with many of the issues and ideas presented in this report, but did not concur with all of the recommendations. These companies would like to build upon the experience of the wheelchair accessible taxi pilot, rollDC, to ensure high quality, sustainable and successful wheelchair accessible taxicab service.

- 3) ABOUT THE DC TAXICAB COMMISSION DISABILITY ADVISORY COMMITTEE, Page 71**

Please add the following text or similar to this section:

While many of the members of the committee agreed with the recommendations in the report, the report is not a consensus report, with taxi industry members raising concerns about the sustainability and viability of a 100% wheelchair accessible fleet.

- 4) Committee Membership, Page 72**

The taxicab industry feel very strongly and recommend that the committee Vice Chair be featured and recognized more prominently in the development and coordination of this report since the Committee Chair since played a very limited role in the Committee but is listed first (Page 72)

Mobility for All New Yorkers

June 11, 2014

Disabled Accessibility Plan (“DAP”)

Prepared by the New York City Taxi and Limousine Commission

Submitted to the New York State Department of Transportation

The New York City (“NYC” or “City”) Taxi and Limousine Commission (“TLC”) respectfully submits this Disabled Accessibility Plan (the “DAP”) to the New York State Department of Transportation (“DOT”) as required by Chapter 602 of the Laws of 2011, as amended by Chapter 9 of the Laws of 2012 (“HAIL Law”). The HAIL Law, among other things, requires the City to prepare a DAP addressing access for persons with disabilities to the TLC’s for-hire fleet. Specifically, the HAIL Law requires that the DAP:

- (a) Lead to meaningful accessibility over a period of years for individuals with disabilities to all taxicabs, for-hire vehicles (“FHV”) and HAIL vehicles¹;
- (b) Make accessible vehicles available based on need within geographic areas of the City by for-hire base stations and provide the method to be used to calculate such need and monitor this availability;
- (c) May include alternate means of increasing marketability and adequacy of incentives to purchase accessible licenses so that accessibility requirements can be achieved; and
- (d) Contain a recommendation for the percentage of HAIL licenses issued in any second or third issuances to be restricted to use with accessible vehicles, although if no recommendation is made, the percentage will remain the 20% originally specified in the Hail Law.

The DAP was prepared in consultation and cooperation with the Mayor’s Office for People with Disabilities (“MOPD”), disability rights advocates and other stakeholders, and submitted to the City Council for its comments, which shall be considered by TLC prior to the submission of the DAP to DOT. TLC submitted the DAP to City Council for its comments on June 4, 2014. TLC staff met with the Chair of the City Council Transportation Committee and Council staff regarding the DAP on June 6, 2014. Members of City Council also discussed provisions of the DAP with the TLC Commissioner and staff at a June 9, 2014 City Council Transportation Committee hearing. The HAIL Law required submission of the DAP to DOT by June 12, 2014, the one-year anniversary of the issuance of the first Boro Taxi permit, and it was submitted on June 11, 2014.

The DAP, in line with the de Blasio Administration’s platform, prioritizes inclusion, and sets forth a multifaceted, practical, and service-oriented path to meaningful accessibility. The DAP supports the overall goals of the de Blasio Administration that New York is truly *one city* and, as such, all residents must have access to the City’s taxis, FHV, and Boro Taxis. To further these goals, the DAP will result in a fleet of more than 16,900 accessible vehicles. This means that over time 54% of all street hail-able vehicles in NYC will be wheelchair accessible. To complement this large accessible fleet, the DAP will expand upon existing dispatch services so that wheelchair users in all five boroughs will be able to have an accessible taxi or accessible Boro Taxi dispatched to them on-demand or by advanced reservation. The City appreciates New York State’s continued support of accessibility initiatives like those outlined in the DAP and looks forward to continued collaboration on this issue.

¹ HAIL vehicles are called Street Hail Liveries (“SHL”) in TLC rules and are colloquially called “Boro Taxis” or “green taxis.” They are a special type of for-hire vehicle that is permitted to accept dispatch calls and make street-hail pickups in certain areas of New York City. Their service area includes Brooklyn, Queens, The Bronx, Staten Island, and Manhattan north of W. 110th St. and E. 96th St.

I. Background

Access and NYC

NYC residents and visitors rely heavily on the public transportation network to move around the City. This expansive system of buses, subways, commuter rail, and paratransit vehicles operated by the Metropolitan Transit Authority (“MTA”), along with taxis and other FHV’s regulated by the TLC, provide almost 9 million rides every day and are critical components of the City’s economy. The strength of this network is a key driver behind the decision that 53% of NYC households have made to forego car ownership and rely upon the affordable and sustainable public transportation system.²

Unfortunately, much of this network is currently out of reach for the estimated 90,000 wheelchair users who reside in or visit the City.³ Most subway stations are not wheelchair-accessible. Although it is laudable that all MTA buses are wheelchair accessible, it can sometimes be inconvenient or slow for some wheelchair users to reach their destinations via bus. The MTA’s Access-A-Ride paratransit service provides an advanced registration system that enables a passenger in a wheelchair to be picked up and dropped off virtually anywhere in the City for the affordable price of a bus or subway ride; however, the service is not available “on-demand” for spontaneous trips that a non-wheelchair user could make through a taxi or car service company. The City has made great strides in recent years and months to increase accessibility in the taxi and for-hire vehicle fleets; however, the share of the hail-able fleet that is currently accessible remains under 10%.

Expanding wheelchair users’ access to taxi and FHV service is paramount for Mayor de Blasio’s Administration. The City has a special obligation to ensure that wheelchair users have mobility options that enable them to live their lives to the fullest. For many years before, and with a renewed energy and focus since the passage of the HAIL Law, TLC has been working to develop a program that makes taxis and FHV’s a key part of this mobility solution. TLC’s efforts have included programs to put more accessible vehicles on the road, improve matching between accessible vehicles and the passengers who need them, establish funding sources for accessibility initiatives, and monitor levels of accessibility. Section II of this DAP specifically outlines the steps TLC has taken since the passage of the HAIL Law to achieve meaningful accessibility in the industries we regulate. For a description of accessibility policy in the taxi and FHV industries in earlier years and for additional background information, please see Appendix A.

Developing the DAP

The TLC has undertaken a collaborative approach to developing the DAP. TLC’s collaboration with the MOPD and, most critically, disability rights advocates, was vital in developing this DAP. These advocates included not only formal representatives of the disability community who have been working tirelessly

² Source: New York City Economic Development Corporation. <http://www.nycedc.com/blog-entry/new-yorkers-and-cars>

³ Source: NYC Mayor’s Office for People with Disabilities.

over the years to expand accessibility in transportation and other venues, but also City residents who use wheelchairs and thus could provide first-hand perspectives on gaps in service and what program elements are most essential. These personal accounts of the impact the lack of accessible transportation has had on their lives and the lives of others in the disability community were inspiring and a constant reminder of the urgency of finding an accessibility solution that provides fairness to all New Yorkers both swiftly and sustainably. These advocates highlighted the importance of working towards both increases in the number of accessible vehicles in service *and* improving the channels, such as citywide dispatch, through which they could be accessed in all five boroughs. They also emphasized the importance of a broad sharing of responsibility for providing accessible service across the various TLC-regulated industries, the need to continuously monitor progress towards accessibility goals, and the importance of developing programs that will ensure that accessibility initiatives launching now continue in the future.

After submitting the DAP to City Council for its review, TLC met with the Chair of the Transportation Committee and his staff. The Chair frequently hears from constituents about this issue and is an advocate for accessibility. He provided productive feedback on the DAP and indicated his support for increased accessibility in both the yellow taxi fleet and the Boro Taxi fleet.

TLC also worked with participants in the industries it regulates, such as yellow taxi vehicle and medallion owners, yellow taxi drivers, Boro Taxi permit holders and vehicle owners, Boro Taxi drivers, Boro Taxi base operators, and other industry stakeholders to solicit input for policies and obtain feedback on proposed aspects of this DAP. Members of all sectors of the for-hire industries understand the importance of being able to provide service to all New Yorkers; however, over the course of many meetings, phone conversations, and public hearings, they drew upon their experiences to highlight the operational and financial issues associated with translating this goal into a reality. There was not broad agreement on what a “fair” policy looks like when revenues and expenses are spread among drivers, independent operators, large fleet operators, and existing owners of restricted accessible medallions.

One example of the differences of opinion among parties revolved around TLC’s April 2014 Accessibility Rules that outline a path to a 50% accessible yellow taxi fleet. In discussions regarding these rules, some single-shifting yellow taxi owner-operators felt that their small business model, which generates less revenue per vehicle than a double-shifted fleet yellow taxi, should have accessibility requirements that differ from those faced by larger fleet owners. Large fleet owners thought that every taxi owner should have similar accessibility requirements and collect surcharges in the same way, regardless of operational model, and that each fleet should collect and retain surcharge money to self-fund accessibility. However, TLC calculations revealed that the latter would result in fleet owners’ taking in more through surcharge revenue than would be needed to cover their accessibility-related expenses, while independent operators would take in less than their accessibility-related expenses. To promote equity among stakeholders, the rules TLC passed require all taxi owners to have accessibility requirements at similar levels, but instead of self-funding, all owners would draw grants of equal amounts from a common fund.

Drivers had their own concerns with TLC's April 2014 Accessibility Rules. They wanted to ensure that the drivers' share of the accessibility funding was proportionate to the expenses they face when operating an accessible vehicle, including fuel costs, training, and additional off-meter time spent serving passengers in wheelchairs. Drivers were also concerned about the impact that a passenger surcharge would have on their tips, ridership, and ability to lobby for future fare increases. TLC used data from past surcharge introductions to analyze the impact that a surcharge has on the tip level, which revealed that there will likely be no impact on the tip level, and calculated the amount of revenue that an accessible vehicle driver could expect as part of the program.

The Boro Taxi industry, which is a brand new system with lower per-vehicle revenues than the yellow taxi industry, was also supportive of providing service to all New Yorkers, including those who use wheelchairs. However, they expressed a concern with the high share of accessible vehicles that disability advocates were calling for, and instead favored an apportionment based on a scientific assessment of demand rather than the equity and rights-based perspective favored by advocates.

Vehicle owners of all stripes expressed concerns about the durability of accessible vehicles, which have historically not lasted as long as non-accessible vehicles. They also questioned whether there would be sufficient supply of accessible vehicles when accessibility requirements go into place, since in the past accessible vehicle up-fitters have sometimes lacked the capacity to deliver the number of vehicles the industry has needed. In response, TLC reached out to accessible vehicle manufacturers to get a sense of their current capacity and ability to increase production as demand for accessible vehicles climbs.

TLC also heard from representatives of taxi passengers. They expressed support for increasing accessibility in TLC-regulated vehicles and for a passenger surcharge to fund these improvements. However, they called for an expansion of vehicle improvements to further align with the traffic safety goals outlined in Mayor de Blasio's Vision Zero initiative.

II. The DAP

The DAP sets forth initiatives vital to increased access that also meet the three goals set forth in the HAIL Law:

- (A) Promoting meaningful accessibility over a period of years for individuals with disabilities to all taxicabs, FHV's and HAIL vehicles;
- (B) Making accessible vehicles available based on need within geographic areas of the City by for-hire base stations and providing a method to be used to calculate such need and monitor this availability; and
- (C) Developing alternate means of increasing marketability and adequacy of incentives to purchase accessible licenses so that accessibility requirements can be achieved.

TLC has various initiatives that fall under each of these goals, which are discussed in turn below. The highlights of the DAP include the creation of a hail-able fleet in which 54% of vehicles are accessible. By 2024, more than 12,700 accessible vehicles will be available in all five boroughs for wheelchair users to street hail or call via dispatch services. Over time, this number will grow to over 16,900.

The following sub-section discusses these initiatives as they relate generally to Goal A. Subsequent sections focus on the geographic distribution of these vehicles (sub-section B, Goal B) and incentives in place to ensure these plans move forward successfully (sub-section C, Goal C).

A. Promoting meaningful accessibility over a period of years for individuals with disabilities to all taxicabs, FHV's and HAIL vehicles. Several initiatives fall under TLC's plan to promote meaningful accessibility over time. These include:

1. Increasing accessibility in the yellow taxi fleet.
 - a. Implementing rules such that at least 50% of the yellow taxi fleet will be accessible by 2020. Existing rules put approximately 6,500 new accessible yellow taxis on the road in addition to the 631 existing accessible medallions.
 - b. Upon approval of the DAP, selling 1,600 additional accessible medallions.

In combination, TLC projects that these policies will result in a yellow taxi fleet that is 58% accessible (approximately 8,800 accessible vehicles) by 2020.
2. Increasing accessibility in the Boro Taxi fleet.
 - a. TLC has already ensured that 20% of the first Boro Taxi issuance—1,200 of 6,000 vehicles—are accessible, consistent with the requirements of the HAIL Law.
 - b. Going forward, TLC will issue permits in proportions so that 50% of the entire Boro Taxi fleet is accessible.
 - i. In the second issuance starting August 2014, of the 6,000 permits issued, 2,700 (45%) will be accessible by 2024 and ongoing financial incentives will be available to purchasers of these accessible permits.
 - ii. Following a Hail Market Analysis demonstrating need, the first 4,200 permits from the third issuance will be accessible, and any additional permits sold beyond that will be sold in proportions to keep the overall fleet at least 50% accessible.⁴ Beyond the one-time grants available for some third-issuance permits (as were called for in the HAIL Law), there is not yet an identified source of initial funding for other third-issuance accessible permits or a recurring funding source for any third-issuance purchasers. However, going forward, the TLC, with disability advocates and Boro Taxi industry participants, will explore additional funding opportunities.
3. Supporting private-sector innovation to improve access to accessible taxis and Boro Taxis.
4. Expanding the pool of drivers qualified to drive accessible vehicles.

1. Increasing accessibility in the yellow taxi fleet.

1a. Implementing rules such that at least 50% of the yellow taxi fleet will be accessible by 2020. On November 27, 2013, TLC and several entities representing advocates for wheelchair passengers – including Disability Rights Advocates, the United Spinal Association, and the Taxis for All Campaign –

⁴ The Hail Law requires that before any third issuance occurs, a Hail Market Analysis be prepared and submitted to City Council and to New York State Department of Transportation. See Chapter 9 of the Laws of 2012, section 6.

agreed that TLC would commence rule-making to require half of all yellow medallion taxis to be wheelchair-accessible by 2020. Firmly committed to taxi fleet accessibility, Mayor de Blasio, through TLC, undertook the complex task of promulgating rules that would make the prior administration's general settlement a reality. On March 27, 2014, TLC published rules that took industry participant and advocate feedback into account, and addressed concerns about economic impact, participation by all owners, and the need for fairness for both minifleet medallion owners and independent medallion owners. A hearing on these rules took place on April 30, 2014, and a representative of the Chair of the City Council's Transportation Committee testified before the Commission at that hearing expressing support for the 50% accessibility requirement. The Commission voted to approve the rules, which enable the City to reach the goal of a 50% accessible fleet by 2020 by gradually requiring taxi owners to purchase accessible taxi vehicles once their existing vehicles reach their scheduled retirement dates, on April 30, 2014. The rules also provide for a passenger surcharge, discussed in Section C below, which will be used to create a grant program to fund expenses associated with operating accessible vehicles. There is no sunset or expiration for these rules, and TLC has no plans to take action that would reduce the yellow taxi fleet below 50% accessibility. For details on these rules, please see Appendix B.

1b. Upon approval of the DAP, selling 1,600 additional accessible medallions. In addition to implementing the conversion plan for the existing taxi fleet, if this DAP is approved, TLC will schedule the sale of the 1,600 additional accessible medallions authorized by the HAIL Law. TLC expects that these sales would take place over the next several years.

In combination, TLC projects that these policies will result in a yellow taxi fleet that is 58% accessible (approximately 8,800 accessible vehicles) by 2020.

2. Increasing accessibility in the Boro Taxi fleet.

2a. Ensuring that 20% of the first Boro Taxi issuance—1,200 of 6,000 vehicles—are accessible. While the phase-in plan described above for yellow taxis will make significant progress towards providing excellent accessible taxi service in the areas of the city yellow taxis serve (i.e., Manhattan and the airports), the rest of the City relies on FHV's, including Boro Taxis. As Boro Taxis have gone into service, growing from a few hundred vehicles in October 2013 to over 5,000 vehicles in May 2014, TLC review and analysis of electronic trip records has shown that an unprecedented level of safe and legal hail service is now available in many communities outside the Manhattan Core.⁵

The HAIL Law required 20% of Boro Taxi permits to be restricted to use with wheelchair-accessible vehicles. Between June and October 2013, TLC issued all 6,000 Boro Taxi permits, including 1,200 accessible Boro Taxi permits, it was allowed to issue during the first year of the program. As of June 2, 2014, 548 accessible Boro Taxis were fully-equipped and approved for service by TLC.

⁵ The Manhattan Core refers to the parts of Manhattan south, east, and west of Central Park. The Manhattan Core contains the Central Business district and additional neighborhoods on either side of the park.

Owners of the 652 accessible Boro Taxi permits that are not yet in service are in various stages of preparation, such as awaiting the arrival of specially-equipped accessible vehicles. Based on TLC's experiences with the rollout of accessible yellow taxis, these delays are not surprising. There are relatively few suppliers of accessible taxi vehicles, so owners sometimes have to wait to obtain a vehicle. TLC is in close communication with manufacturers and up-fitters of accessible vehicles and is working to expedite owners' putting accessible Boro Taxis into service wherever possible. Some owners whose accessible vehicles are not yet on the road are in various stages of TLC's grant process, either gathering application materials or awaiting processing and approval by TLC. TLC closely monitors progress towards getting all 1,200 on the road and available to pick up passengers. Most importantly, although TLC has no means of tracking the actual volume of Boro Taxi trips taken by wheelchair users, accessible Boro Taxi drivers report demand from these residents. One permit holder reported that she rarely, if ever, saw a wheelchair passenger when she drove a traditional livery vehicle, but she was hailed by one on her first day of driving an accessible Boro Taxi.

2b. Going forward, requiring at least 50% of the entire Boro Taxi fleet to be accessible.

One of TLC's primary initiatives to increase accessibility in the communities outside the Manhattan Core is to set forth a new requirement that, over time, at least 50% of the entire Boro Taxi fleet will become accessible. After all three issuances have taken place and all accessibility requirements have been phased in, this will result in at least 8,100 accessible Boro Taxis being available by both dispatch and street hail. TLC developed this plan for a 50% accessible fleet based on careful consideration of a variety of factors. While estimates of passenger demand for accessible service suggest that a smaller than 50%-accessible fleet would meet wheelchair passengers' needs, consideration of empirical need must be balanced with that fact that it is difficult to quantify the level of access that is acceptable. If one wheelchair user is unable to avail himself or herself of for-hire service, then the number of accessible vehicles and the features of other programs that support accessibility, such as accessible dispatch, needs to be re-evaluated. In striking a workable balance, TLC is also mindful of the importance of funding to support accessible vehicle conversions. Because the Street Hail Livery Improvement Fund would generate funding to make putting a larger share of accessible vehicles on the road than the needs analysis suggests, and because we expect that over time the industry will develop new way to generate revenue and reduce accessibility-related costs, TLC would like to raise the bar and provide a higher level of service than needs analysis suggests.

There is a clear need for additional Boro Taxi service, including accessible Boro Taxi service. The 6,000 Boro Taxi permits that have already been issued have dramatically increased access to safe and legal street hail service in many City neighborhoods outside Manhattan (see Appendix C for maps of pickup patterns). However, many neighborhoods, such as Coney Island, Sunset Park, Flushing, and much of The Bronx, remain in which street hail service demand—based on field observation and a TLC index that

gauges street hail demand—exceeds supply.⁶ For example, Jamaica, Queens’ high concentration of commercial activity, relatively low car ownership rates, and status as a major transit hub generate high demand for street hail service that is only beginning to be met given the current supply of Boro Taxis. When legal street hail service is not available, the public resorts to illegal forms of for-hire transportation. These vehicles have not been inspected by TLC, so their brakes may be worn and their tires balding. These vehicles are most likely under-insured, if they are insured at all, and the drivers have not undergone the mandatory background checks and annual drug testing required of all licensed TLC drivers.

As more Boro Taxis have gone into service, trip data have shown that per-vehicle pickups have remained fairly constant at eleven to twelve street hails per day. This means that additional vehicles are not cannibalizing a set level of demand; rather, these additional vehicles are meeting previously unmet demand by (1) increasing service levels in inner-ring neighborhoods⁷ and (2) increasing the number of neighborhoods with service. Analysis of geographic trends in Boro Taxi pick-ups confirms the spread of service. Two months into the program, there were only two City Council districts with more than 500 trips per day. Four months into the program, there were twelve City Council districts with more than 500 trips per day. Eight months into the program, there were nineteen City Council districts showing this level of trips. The first map in Appendix C shows the intensification and geographic spread of Boro Taxi service as it transitioned from the earliest program stage to a stage in which most of the first issuance was on the road.

The overall need for additional legal hail service in the boroughs necessarily means that there is specific need for additional legal accessible service in the boroughs. In formulating the DAP, TLC met with disability advocates who proposed 50% accessibility in each sector of hail-able vehicle (i.e., yellow taxis and Boro Taxis). The Chair of the City Council Transportation Committee also expressed support for 50% accessibility in each sector. Boro Taxi industry drivers, base owners and permit holders support a move towards greater accessibility; however, because of the dual nature of the Boro Taxi, which is designed to be either hailed or dispatched, and the prevalence of dispatch in the boroughs for all passengers, as discussed below, Boro Taxi industry participants advocated that the level of additional accessible service be driven by research on the level of demand for this service. Assessing demand levels and needs is difficult, but TLC used information from the existing yellow taxi accessible dispatch program and the population of wheelchair-users to generate a rough estimate of demand for wheelchair-accessible service in the Boro Taxi service area.

For both wheelchair users and non-wheelchair users alike who live in communities outside Manhattan, dispatch service is far more common and essential than in Manhattan. This is because street hailing is not feasible on many residential streets or in quieter neighborhoods. Therefore an estimate of the

⁶ This index takes into account the following criteria commonly associated with street hail demand: employment density, population density, household car ownership rates, median household income, commercial density, and presence of commuter rail hubs and airports.

⁷ Inner-ring neighborhoods are neighborhoods outside the Manhattan Core but that are relatively close to it, such as Downtown Brooklyn, Western Queens, and Northern Manhattan.

number of accessible vehicles that would be needed to meet demand for accessible service should be linked to the number of vehicles that are needed to provide accessible dispatch service at a level that is at least as good as currently exists in the Manhattan Core.

To estimate the level of demand for accessible Boro Taxi service, TLC looked at the levels of service being provided under the current yellow taxi Accessible Dispatch system, which serves passengers in Manhattan. The agency assumed that wheelchair users in neighborhoods outside Manhattan would use Boro Taxis as frequently as Manhattan users use yellow taxis, and that accessible dispatch trips comprise the same proportion of a Boro Taxi's trips as they comprise of a yellow taxi's trips.

1. Number of Wheelchair-Users in the Boroughs

- Between residents and visitors to NYC, there are an estimated 90,000 wheelchair users in NYC.⁸
- Based on data available about the distribution of individuals with ambulatory difficulty across the boroughs,⁹ TLC estimates that approximately 64% (58,000) of these individuals live in or visit the boroughs outside of Manhattan and 36% (32,000) live in or visit Manhattan.

2. Number of Accessible Dispatch Trips in Manhattan

- Between February 1, 2014 and April 30, 2014, there were 8,041 accessible dispatch trips in Manhattan.
- Because the population of wheelchair-using residents is 1.8 times as large in the boroughs as in the yellow taxi's primary service area, we project that in this period there would be approximately 14,000 accessible dispatch trips in this area in a similar time period.

3. Number of Vehicles Needed to Meet Demand

- Accessible dispatch trips account for 1% of all 780,000 trips made by accessible yellow taxis in this 3-month period.
- Based on the conservative assumption that Boro Taxis would have no greater availability for responding to a dispatch than do yellow taxis, we assume that accessible dispatch trips would account for 1% of their projected 1.4 million trips in a 3-month period.
- Assuming that each Boro Taxi works three-quarters of all days at 10.5 trips per day, we estimate that each Boro Taxi would serve approximately 700 trips over a 3-month period.
- Therefore, to meet the demand for an estimated 14,000 trips, approximately 2,000 accessible Boro Taxis would be needed to satisfy demand in the communities they serve at a level of service that matches that available in Manhattan.

⁸ Source: NYC Mayor's Office for People with Disabilities.

⁹ There are nearly 240,000 people with ambulatory difficulty living in Manhattan and nearly 420,000 people with ambulatory difficulty live in Brooklyn, Queens, The Bronx, and Staten Island. Source: U.S. Census Bureau 2012. American Community Survey.

In addition to providing dispatch service, these accessible vehicles would also respond to street-hails of wheelchair users in neighborhoods where they cruise.

TLC expects to begin issuing the second tranche of 6,000 Boro Taxi permits in August 2014. The Boro Taxi market, including the market for accessible Boro Taxi service, is still in the early stages of its development. At this early stage and in the near future, TLC is working to provide as many Boro Taxi permit holders as possible with support to put accessible vehicles on the road. Funding will already be available through the Boro Taxi grant program required by the HAIL Law, and with projected funding available from the Street Hail Livery Improvement Fund (passed by the TLC in April 2014), identified funding streams can provide ongoing financial support for a second issuance in which 45% (2,700) of the 6,000 permits will have accessibility requirements by 2024. Twelve hundred of these permits will have accessibility requirements immediately upon issuance. Five hundred more permits will gain an accessibility requirement upon first renewal (3 years after issuance), followed by 500 more upon second renewal (6 years after issuance) and 500 more upon third renewal (9 years after issuance). At full 2024 implementation of accessibility requirements for permits sold in the first and second issuances, 3,900 (33%) permits will have accessibility requirements and ongoing financial support to help meet these requirements. The financial mechanisms to facilitate the industry's purchasing and keeping accessible Boro Taxis on the road are further described in Section C.

The HAIL Law also authorized the City to sell a third tranche of 6,000 Boro Taxi permits. If need for the third tranche is demonstrated through the prerequisite HAIL Market Analysis, the first 4,200 permits of the third issuance will be accessible. When these permits go into service, it will bring the overall Boro Taxi fleet to 50% accessibility (8,100 accessible vehicles). Any additional third-issuance permits sold beyond the first 4,200 will be sold in proportions such that the overall share of accessible Boro Taxi permits is never lower than 50%. Although grant funding and anticipated accessibility surcharge funding are available to provide ongoing support to accessible vehicles purchased in the first and second issuance, identified funding to support accessibility requirements for third-issuance vehicles is currently limited to the one-time grants for some third-issuance permits that were called for under the HAIL Law. TLC will continue to evaluate funding options to support ongoing accessibility for third-issuance accessible permit holders. In addition, over time the Boro Taxi industry may find additional revenue opportunities (e.g., medical contract trips) and cost reductions (e.g., lower-priced vehicle up-fits) that will make accessible vehicle purchase more affordable without outside financial support.

The share of accessible permits TLC proposes aligns with advocates' request for at least 50%; however, the timeline for building the accessible fleet is longer than they would like. Whereas advocates believe a 50% accessible fleet is desirable regardless of empirical need estimations, Boro Taxi industry members advocate for a demand-based determination of the size of the accessible fleet, suggesting that a 50% requirement designed to mirror the yellow taxi industry may be too high.

TLC believes that a 50%-accessible Boro Taxi fleet, which would contain 8,100 accessible vehicles, is more than sufficient to meet demand and can be feasibly implemented. This is based on several factors:

- *Demand.* The above calculations estimating demand for accessible Boro Taxis in communities outside Manhattan suggest that approximately 2,000 accessible Boro Taxis would be sufficient to meet demand. A 50%-accessible fleet would more than meet this projected demand, and is appropriately higher than projected demand to take into account projected population growth in communities outside the Manhattan Core and the desire to provide high-quality service to wheelchair users. NYC's population is projected to reach 8.6 million by 2020 and 8.8 million by 2030, up from today's all-time high population of 8.4 million. Approximately 84% of this population growth is expected to take place in The Bronx, Brooklyn, Queens, and Staten Island.¹⁰ The above calculation also takes into account the fact that the aging NYC population is growing dramatically. The number of New Yorkers ages 65 and over is projected to increase 44.2%, from 938,000 in 2000 to 1.35 million in 2030. By 2030, the 65-plus population will increase to 14.8% of the population, up from 11.7% in 2000.¹¹
- *Financing.* TLC projections for the amount of revenue available through the existing TLC accessible Boro Taxi grant program and anticipated future revenues from the \$0.30 per ride passenger surcharge show that accessible vehicle purchases could be financially supported for early-adopting first- and second-issuance permit holders over the 2024 timeline. This financial support is important to enabling the developing Boro Taxi industry to put accessible vehicles on the road and replace them as needed.
- *Vehicle Availability.* Past experience with accessible vehicle rollouts and discussions with accessible vehicle up-fitters and manufacturers suggest that this relatively small industry can more feasibly meet demand generated by a gradual rollout than by a rapid rollout. A realistic assessment of vehicle availability is particularly important in light of the simultaneous demand that increases in accessibility in the yellow taxi fleet will place on the manufacturer/up-fitter companies.

TLC believes that a 50%-accessible Boro Taxi fleet is more than adequate to meet this demand. The long timeline is not ideal from a service perspective, but given the costs associated with operating accessible vehicles, the newness of the industry, and issues surrounding vehicle availability, it is the agency's belief that a gradual rollout is necessary to ensure financial feasibility and vehicle availability that enable owners to purchase accessible vehicles.

3. Support for private-sector innovation to improve access to accessible taxis and accessible Boro

Taxis. The private industries that support accessible vehicle initiatives—ranging from major automakers to specialty automakers and firms that provide accessible up-fits—are key components of the accessibility agenda. TLC will continue to collaborate with these firms to find ways to improve the durability, comfort and economic competitiveness of their vehicles. TLC believes that maintaining this ongoing dialog will improve the passenger experience, increase the attractiveness of these vehicles to taxi industry purchasers, and decrease the environmental footprint associated with their operation. Members of the City Council also stressed the importance of continued collaboration with automakers

¹⁰Source: NYC Planning http://www.nyc.gov/html/dcp/pdf/census/projections_report_2010_2040.

¹¹Source: NYC Planning. http://www.nyc.gov/html/dcp/pdf/census/projections_briefing_booklet.pdf

and up-fitters to ensure that a variety of high-quality accessible vehicles are readily available for purchase by the yellow taxi and Boro Taxi industries.

4. Expanding the pool of trained accessible taxi drivers. Drivers must receive training on operating an accessible taxicab. Specifically, drivers must be trained on how to safely secure wheelchair-using passengers in the vehicle, and drivers must learn social skills necessary to serve wheelchair-using passengers in a culturally sensitive way. To ensure that there is an adequate supply of drivers who are qualified to drive accessible taxis and Boro Taxis as their numbers grow, TLC's April 2014 Accessibility Rules require that all new drivers receive wheelchair passenger assistance training and all current drivers will be required to receive this training within one year of the effective date of their taxi driver's license renewals.

B. Making accessible vehicles available based on need within geographic areas of the City by for-hire base stations and providing the method to be used to calculate such need and monitor this availability. Several of TLC's initiatives under the DAP are specifically designed to ensure that accessible vehicles are available in every neighborhood where they are needed. These include:

1. Continuing the accessible dispatch program for yellow taxis.
2. Creating a new centralized accessible dispatch program for Boro Taxis.
3. Creating an Accessibility Advisory Committee and monitoring program.

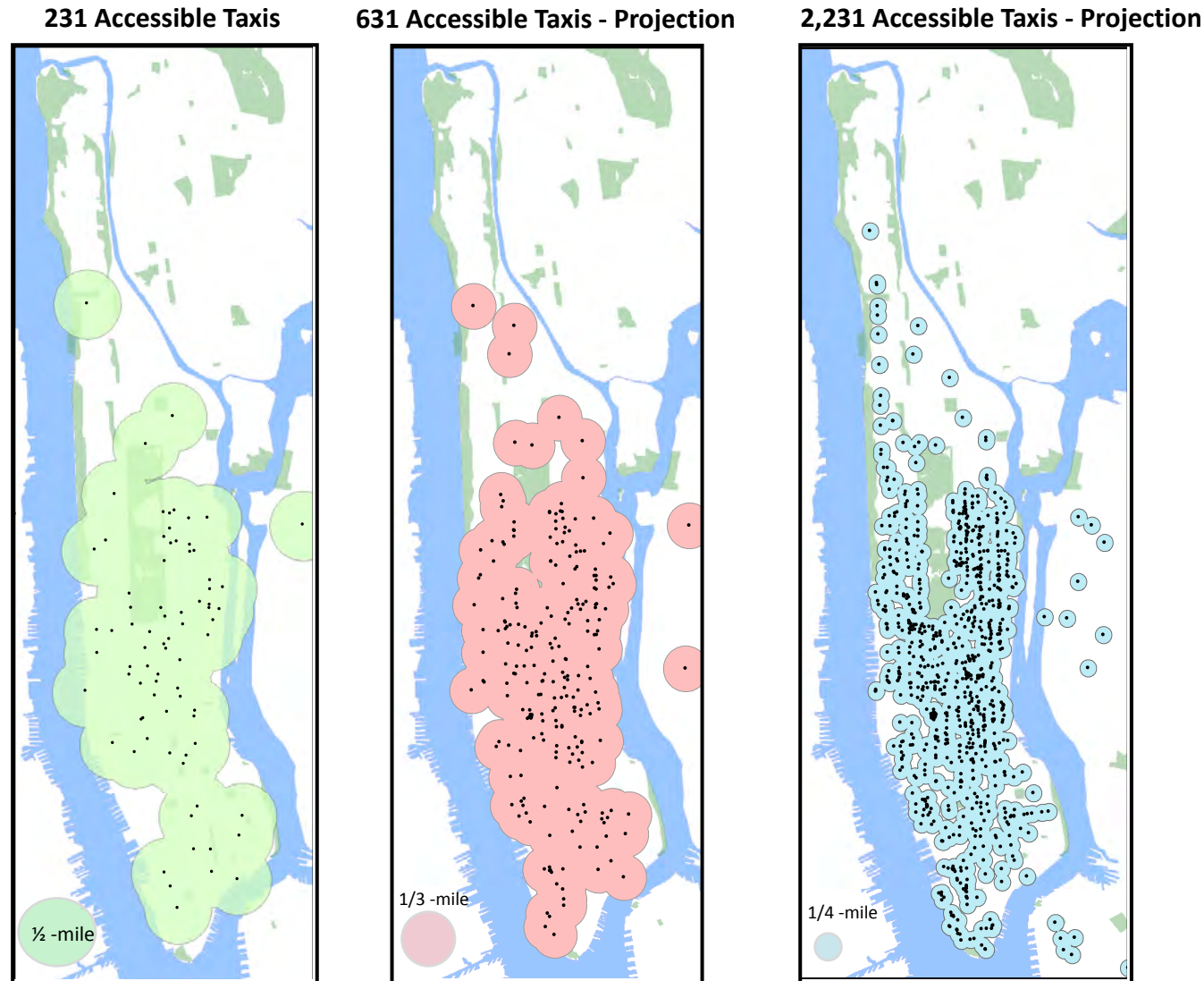
1. Continuing the accessible dispatch program for yellow taxis. Creating excellent street hail taxi access for wheelchair users through the sale of new medallions authorized by the HAIL Law and the phased-in conversion of existing taxis pursuant to new TLC rules may take several years. In addition, there may always be areas of the City, such as far into Alphabet City or other areas with less "through traffic," where taxis simply do not cruise. To provide taxi access more quickly and in neighborhoods that naturally draw fewer cruising taxis, in September 2012 TLC began, through a contract with a private vendor, an accessible dispatch program. The accessible dispatch program follows the same basic framework of the 2008-2010 accessible dispatch demonstration project—allowing wheelchair users to request a pickup by a wheelchair-accessible yellow taxi at any location in Manhattan—but it makes several key operational improvements that have led to improved performance. These include (1) motivating drivers to participate by compensating them for traveling empty to the passenger's pickup location and for "no-show" passengers, (2) issuing summonses penalizing drivers who are required to participate but do not do so, (3) conducting better outreach/advertising to the wheelchair-using community to inform them of this service, (4) setting and assiduously monitoring service standards, (5) continuously funding the program through a fee paid by all taxi owners.

Over 240 wheelchair-accessible taxis are already part of the dispatch program, and all are operated by drivers who are trained by a certified trainer in securing passengers in wheelchairs. Passengers may request a pickup through advance reservation or on-demand, and may do so by calling 311, calling the dispatch company directly, sending a text message, or using a smartphone app. On-duty drivers who do not already have passengers in their vehicles are required to respond to accessible dispatch requests that appear on the monitors mounted in their taxis. For each trip, the driver receives the normal

metered fare from the passenger and \$6 to \$15 from the accessible dispatch program fund to compensate him or her for the distance travelled to the customer's pickup location. If a passenger does not show up, the driver is compensated \$5 from the accessible dispatch program fund for the time he or she spent traveling to and waiting for the "no-show" passenger.

As of early 2014, the dispatch program was typically providing 590 trips per week to wheelchair users. In May 2014, the program reached the milestone of 50,000 accessible dispatch trips. Seventy four percent of requests were for on-demand service, and 26% were advance reservations. The average wait time for a dispatch was 15-20 minutes. All accessible taxis are required to participate in the dispatch program, so as the 400 new accessible medallions that have already been sold go into service, they will be joining the fleet of taxis available through this program. These additional accessible medallions and the 1,600 TLC would sell upon approval of the DAP would create a fleet of 2,231 wheelchair-accessible taxis. This larger fleet of accessible taxis would increase the likelihood that an available accessible taxi is near the requesting passenger, reducing travel time between the taxi and the pickup point and further reducing passenger wait times (see map on next page for an illustration). As the 50% conversion program goes into place and the number of accessible taxis continues to grow, TLC expects that the level of service available through the accessible dispatch program will continue to improve.

Projected Improvements in Accessible Taxi Proximity as Accessible Taxi Fleet Expands



Source: NYCTLC Taxicab Tripsheet Data for Mon., 5.2.11 8:15 to 8:30 AM. This 15-minute "snapshot" shows how many accessible taxis were active at a given moment and where they were located. The 15-minute window enabled us to capture most active taxis once, while rarely counting the same taxi twice. Taxis in this snapshot period would likely be available to respond to a dispatch call in this period. 36% of accessible taxis were active in this snapshot.

2. Creating a new centralized accessible dispatch program for Boro Taxis. The 1,200 accessible Boro Taxi permits that TLC has already issued—especially in combination with the at least 6,900 additional permits that will gradually enter service and become accessible—will provide an unprecedented level of accessible taxi service in neighborhoods outside the Manhattan Core. With 8,100 accessible Boro Taxis on the road, in some neighborhoods—particularly those with transit hubs and commercial districts—wheelchair users would have a good chance of finding accessible Boro Taxis when they would like to hail rides. However, the Boro Taxi program—with its unique “dual use” hail-or-call-ahead vehicles—was designed to meet both hail demand in bustling neighborhoods that lacked yellow service (e.g., Washington Heights, Downtown Brooklyn, the Grand Concourse) while also providing call-ahead service on the many residential streets and quieter neighborhoods that do not have the intensity of traffic circulation needed to support street hail service. Wheelchair users and non-wheelchair users alike in these quieter areas will continue to rely on dispatch service to obtain a ride. Ensuring the availability of accessible service in *all* New York City neighborhoods is a TLC priority and a priority of members of City Council who discussed the DAP with TLC.

Because Boro Taxis are all affiliated with car service companies around the City, a wheelchair user can reserve an accessible Boro Taxi in advance or call to have one sent to his or her location on-demand. There are bases with affiliated accessible Boro Taxis in every borough, and a list of these bases and their contact information is available to passengers on the TLC website.¹² TLC also has an interactive “base finder” map allowing users to click on bases near their locations and find bases with accessible vehicles.¹³

To further improve access to accessible Boro Taxis in light of the importance of dispatch service in quieter residential communities, TLC sees an accessible Boro Taxi dispatch program for Queens, Brooklyn, The Bronx, and Staten Island as central to promoting accessible service. It would be modeled closely on the accessible dispatch program currently in place for yellow taxis. Once this program is in place, residents or visitors in communities outside Manhattan would be able to arrange in advance or call on-demand for the nearest available accessible taxi. This program would be especially valuable to wheelchair users doing business or visiting neighborhoods where they are less familiar with the local car services and would prefer to employ a simple, uniform process for obtaining an accessible ride.

TLC aims to make requesting a dispatched yellow taxi or Boro Taxi as easy for the customer as possible. To that end, regardless of what vendor(s) operate the yellow taxi and Boro Taxi dispatching services, TLC will pursue a program design that enables a passenger to request a ride through the same method (a single phone number, a single app, etc.) regardless of his or her location in the city.

3. Creating an Accessibility Advisory Committee and monitoring program. TLC takes program monitoring very seriously and has maintained constant vigilance over passenger wait times, volumes, and satisfaction in the yellow taxi accessible dispatch program. Although some individuals prefer to

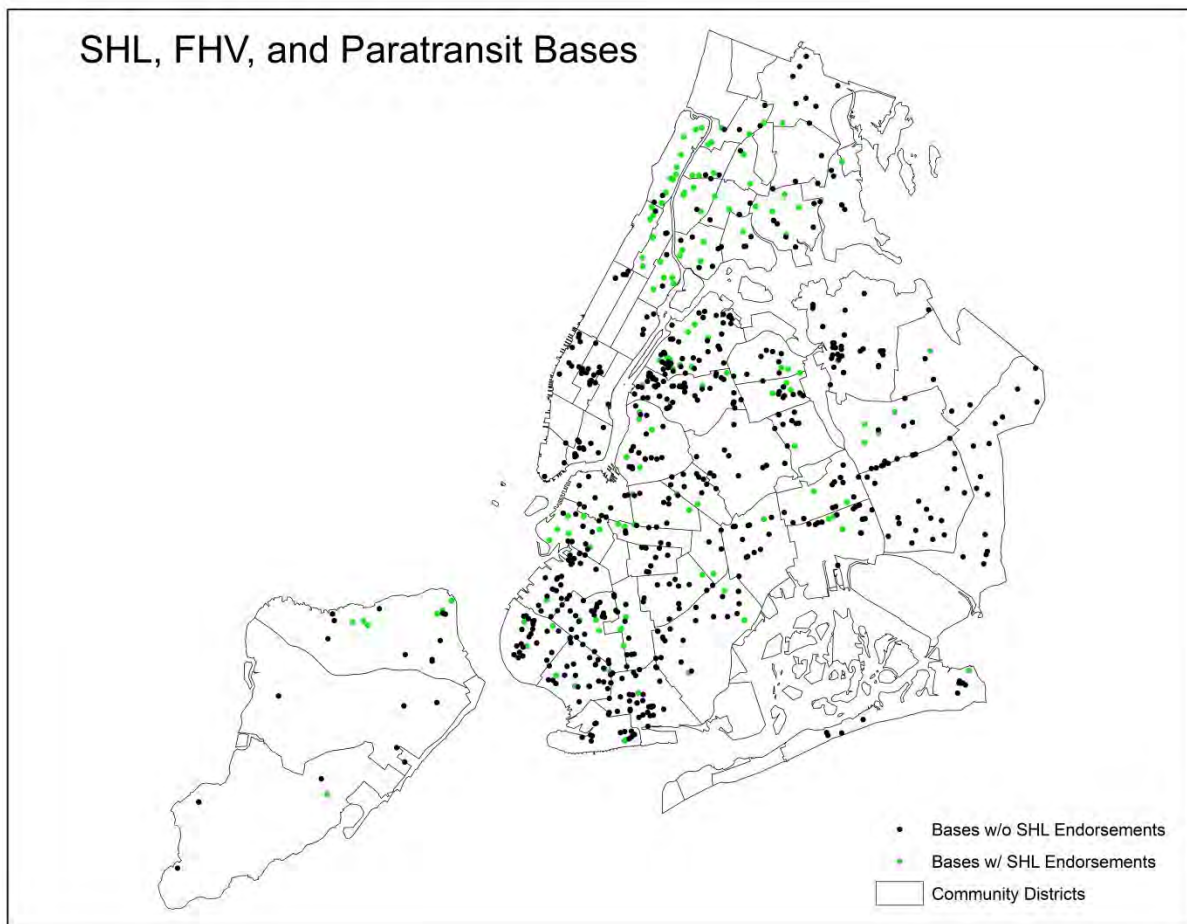
¹² <http://www.nyc.gov/html/tlc/html/passenger/accessible.shtml>

¹³ <https://data.cityofnewyork.us/dataset/FHV-Bases/v52x-36fy?firstRun=true>

obtain accessible service by hailing or calling a base directly, by monitoring the centralized dispatch program performance carefully we will be able to ensure that an acceptable level of service is available to those who need it through at least one method.

The agency will continue this internal program monitoring and is already taking steps to expand public accountability in this program. TLC is already considering ways to publish certain accessible dispatch performance indicators on public websites.

TLC will employ the same monitoring techniques in the new accessible dispatch program for Boro Taxis. This monitoring protocol will place a particular emphasis on service standards by geographic area. By monitoring wait times in each area of the City, we will be able to detect whether there are shortfalls in meeting passenger demand in certain areas of the City. If we find this to be the case, we will undertake additional outreach to bases in these areas to inform them of this passenger demand and encourage—or, if necessary, incentivize—they to purchase accessible Boro Taxi permits or affiliate drivers who have these permits. Fortunately, there are already for-hire vehicle bases in every borough and most neighborhoods in NYC (see map below). Therefore the infrastructure to make changes that could become necessary to meet demand is already in place.



In addition to records TLC obtains from the accessible dispatch program provider, TLC also has access to electronic trip records showing the pickup and drop-off point of every street hail trip for every yellow taxi and Boro Taxi. TLC will continue to analyze these trip records to determine whether there are areas of the City without accessible service. In combination with dispatch program wait time information, TLC will use this information to determine whether accessible service is insufficient in certain areas of the City and what policy changes need to go into place to ensure that all New Yorkers can access accessible service.

Finally, TLC will continue to remain in close contact with MOPD, disability advocates, industry stakeholders, and the companies that operate the dispatch service to continue helping us understand our programs' strengths and weaknesses and issues that are not revealed in quantitative program data. To formalize these relationships, TLC will establish an Accessibility Advisory Committee that will meet twice each year to review agreed upon accessibility indicators and make recommendations for consideration by TLC. The committee will serve as a valuable resource for ensuring accountability and continued collaboration in NYC's accessibility efforts.

C. Developing alternate means of increasing marketability and adequacy of incentives to purchase accessible licenses so that accessibility requirements can be achieved. Several TLC initiatives have been put in place to ensure that the industry is sufficiently incentivized to put accessible yellow taxis and accessible Boro Taxis into service. These include:

1. Implementing an Accessible Boro Taxi grant program and special first-issuance permit pricing.
2. Selling accessible yellow taxi medallions.
3. Creating a Taxicab Improvement Fund to support accessibility.
4. Creating a Street Hail Livery Improvement Fund to support accessibility.
5. Working to incorporate accessible yellow taxi and Boro Taxi fleets into Access-A-Ride program.
6. Exploring additional funding sources and publicizing tax credits to TLC-regulated industries.

1. Selling accessible yellow taxi medallions. Section 8 of the HAIL Law authorized TLC to sell up to 2,000 new wheelchair accessible taxi medallions. The Law permitted TLC to sell 400 of these medallions prior to the approval of the DAP. After meeting the legal requirements to sell these medallions (such as environmental review and selling the first Boro Taxi permit), on November 14, 2013, TLC sold 200 of these accessible medallions at public auction. Taxi operators purchased all 200 available medallions, and the average winning bid for a set of two medallions was approximately \$2.2 million (even though TLC sets a lower minimum bid price for accessible medallions than for other medallions). TLC auctioned another 168 medallions on February 26, 2014 and another 32 on March 25, 2014. Of these 400 medallions, 300 had already entered taxicab service as of June 11, 2014. Because TLC successfully auctioned 400 accessible yellow taxi medallions at high bid prices, if the DAP is approved and the agency is permitted to sell another 1,600 accessible medallions, the agency does not believe any incentives would be needed to enable the industry to put them into operation.

2. Creating a Taxicab Improvement Fund to support accessibility. Purchasing and operating an accessible vehicle is somewhat less profitable than operating a non-accessible vehicle. This is due to several factors, including higher vehicle purchase prices, additional maintenance costs, and lost revenue driven by additional days off the road for repairs and maintenance. Whereas purchasers of restricted accessible medallions factored these costs into their purchase decisions, unrestricted medallion owners did not.

To support owners and drivers facing accessibility-related costs associated with the plan to bring about a 50% accessible fleet, the rules TLC passed provide for the creation of a new City-managed Taxicab Improvement Fund. Revenue for this fund will come from a new \$0.30 per ride passenger surcharge beginning on January 1, 2015. Five cents of this surcharge will be reserved only for drivers of accessible vehicles to defray the additional costs associated with driving an accessible vehicle, such as off-meter time spent serving wheelchair-using passengers. Twenty-five cents of this surcharge will go to enhance accessibility, including funding payments to taxicab vehicle owners required to put accessible vehicles into service pursuant to the new rules. In addition, beginning in 2016, it is anticipated that monies from this fund will be used to help finance the accessible dispatch program and will replace the per-medallion fee that finances this program currently.

In the summer of 2014, TLC plans to propose rules to further detail the implementation of the commitment the agency made in the rules passed on April 30, 2014 to phase in accessible vehicles to reach to goal of a yellow taxi fleet that is at least 50% accessible. Implementation details to be provided for in these new rules will include methods for disbursing grant funds to vehicle owners converting to accessible vehicles under this program, methods for disbursing funds to accessible taxi and accessible Boro Taxi drivers, criteria for qualifying for grants, and the mechanics of collecting the \$0.30 passenger surcharge. The rules will be designed to ensure that those parties who are incurring the costs associated with operating accessible vehicles are the recipients of grant funds to defray these costs.

The rules passed in April 2014 also provide for transferability of the accessibility requirement. Some parties may find it easier than others to provide accessible service. For example, one fleet may decide to invest in the parts, equipment, and mechanic training that enable it to drive down maintenance and repair costs by performing this work in-house. Another fleet may not have the staff or space to make the investment to do this work in-house, and therefore may face costs for providing accessible service that are high relative to the other fleet. The rules enable the industry to take advantage of varying efficiencies and preferences by allowing owners to transfer a medallion's accessibility requirement and Taxicab Improvement Fund grant to another willing owner whose medallion does not have the accessibility requirement at that time.

The rules also call for a periodic review of the accessibility surcharge and grant program. This review process will ensure that the Taxicab Improvement Fund has sufficient revenue to provide the funding drivers and vehicles owners anticipate to defray their costs associated with providing accessible service. This process will also include review of whether the costs of operating accessible vehicles, such as the costs of purchasing or converting an accessible vehicle, decrease. If costs associated with accessibility

decrease, then TLC could work to reduce the grant amount provided to owners and the surcharge passengers pay.

3. Implementing an Accessible Boro Taxi grant program and special first-issuance permit pricing. To expedite bringing accessible service to neighborhoods Boro Taxis serve, TLC has implemented two incentive programs. First, during the first issuance, TLC decided to issue accessible Boro Taxi permits to qualified applicants free of charge (per state legislation, unrestricted permits cost \$1,500 in the first year). A second incentive TLC is implementing, which was required by the HAIL Law, is a one-time grant of up to \$15,000 per permit to defray the higher purchasing and operating costs associated with wheelchair-accessible vehicles as compared to other vehicles. Most accessible Boro Taxi permit holders have applied for or are in the process of applying for grants to cover vehicle costs for accessibility, and as of June 2014 TLC had already approved 294 of these grant applications for a total of \$4.4 million. TLC continues to process grant applications.

4. Creating a Street Hail Livery Improvement Fund to support accessibility. Although the accessibility rules passed by the TLC on April 30, 2014 contained provisions primarily pertaining to yellow taxis, they also contained an important provision to support continued improvement of accessible service in the communities served by Boro Taxis. The rules created the Street Hail Livery Improvement fund, to be financed by a passenger surcharge of \$0.30 per ride, which TLC anticipates will be used for purposes similar to those planned for the analogous fund being put into place for yellow taxis. This funding will assist owners and drivers in maintaining accessibility in the neighborhoods served by Boro Taxis, including providing grants to facilitate continued accessibility beyond TLC's existing grant program for accessible Boro Taxis. The details of how this fund will be used will be dictated by a future TLC rulemaking.

5. Working to incorporate accessible yellow taxi and Boro Taxi fleets into Access-A-Ride program. In 2014 the MTA anticipates providing over 7.3 million rides at an annual cost of nearly \$500 million through its Access-A-Ride program ("AAR"). TLC would like to explore working with the MTA, disability advocates, and TLC-regulated industries on the longstanding goal of finding ways to leverage taxis to provide service to AAR users. Members of City Council have also expressed interest in pursuing synergies between the AAR program and the growing fleet of accessible TLC-regulated vehicles. While TLC cannot offer an AAR component as a deliverable part of the DAP at this time, the agency is committed to looking at alternatives to both improve service to persons in wheelchairs and to increase income streams for owners of wheelchair-accessible vehicles operating for hire. Some taxi industry stakeholders have expressed interest in the revenue potential associated with providing AAR trips. Disability advocates are also potentially interested in the AAR program's leveraging the fleet of accessible yellow taxis and Boro Taxis to serve its passengers, but advise that this be done in such a way that vehicle availability for non-AAR trips remains plentiful.

If we are able to achieve greater use of yellow taxis and Boro Taxis for AAR trips, it would likely provide several benefits. It could provide more timely and efficient service than is currently available to AAR passengers. It could also offer significant cost savings to taxpayers or provide funding for other initiatives, such as expanding the size of the accessible fleet, because trips provided by yellow taxis and

Boro Taxis would likely cost the MTA less than each AAR trip costs. Finally, leveraging more TLC-regulated vehicles for AAR trips would provide the additional benefit of providing additional revenue to owners and drivers of accessible vehicles, which will support the long-term sustainability and desirability of keeping these vehicles in active service.

6. Exploring additional funding sources and publicizing tax credits to TLC-regulated industries. In addition to the funding programs described above, TLC will explore additional funding sources that could contribute to increasing accessibility in the fleets it regulates. For example, in 2013 TLC was successful in obtaining a \$750,000 federal grant from the United States Department of Transportation New Freedom Program. The grant will provide funding to yellow taxi medallion owners with unrestricted medallions volunteering to put accessible vehicles into service. The agency will continue to explore additional sources of revenue to support accessibility initiatives. In addition, through 2017 there is a \$10,000 New York State tax credit available for purchases or costs incurred in making a taxicab accessible. TLC will continue to publicize this tax credit to TLC-regulated industries to maximize incentives available to parties providing accessible service.

III. Conclusion

Once the DAP has been implemented, NYC will have more than 16,900 accessible vehicles (approximately 8,800 yellow taxis and 8,100 Boro Taxis) operating for hire—one of the largest fleets of accessible taxis in the world. When fully implemented, 54% of all hail-able vehicles in NYC will be wheelchair accessible. This equates to approximately one accessible yellow taxi or Boro Taxi for every five City residents or visitors who use a wheelchair regularly. The DAP does more than just put vehicles on the road. It lets passengers who use wheelchairs have *true access* to this transportation network with the freedom to get a ride by booking in advance, calling for an on-demand pickup, hailing in the street, or booking through an app. The taxi and for-hire industries will be able to follow through on *their* commitments to provide accessible service because the DAP puts a revenue stream in place to fund ongoing costs associated with providing accessible service. The DAP provides accountability by committing the agency to ongoing program monitoring, continued dialog with advocates and other stakeholders, and a roadmap for securing additional funding to support accessibility. The high level of access to private for-hire accessible vehicles outlined in the DAP will become the “new normal” for wheelchair users, their friends, their families, and those with whom they do business. It will ultimately allow residents and visitors of New York to fully take part in our great city.

Appendix A

Background Information and NYC Accessible Taxi and FHV Policy from 2003 to 2011

Taxicabs are passenger vehicles for hire that are permitted to accept hails from passengers in the street anywhere in NYC. They are permitted to make pickups anywhere in the five boroughs, but in practice 93.8% of pickups have traditionally occurred in Manhattan or at the airports. In order to operate a yellow NYC taxicab, one must obtain a City license known as a "medallion." Owners of one of the 13,637 taxicab medallions must adhere to various City regulations, including only operating a taxi with a vehicle that is on the City's list of approved taxicab vehicles. They also may only keep a vehicle in taxi service until its scheduled retirement date. The number of years TLC permits a taxi to operate before a vehicle must retire ranges from three to seven and depends on the type of vehicle and the manner in which it is operated. Minifleet and independent medallions, which give the owner the right to operate a taxicab in perpetuity, each sell for about \$1.3 million and \$1.05 million, respectively.¹⁴

Alongside the yellow medallion taxicabs, which primarily serve Manhattan, TLC also licenses approximately 46,000 FHVs. Car service vehicles (aka livery cars), black cars, and limousines are all types of FHVs. Whereas yellow taxicabs respond to street hails, most FHVs may only pick up passengers on a prearranged basis. They operate throughout the city, but are virtually the only form of point-to-point service in the parts of the city that are rarely served by yellow taxicabs (Brooklyn, The Bronx, Queens, Staten Island and Northern Manhattan. Boro Taxis may respond to both prearranged trip requests and street hails. The Boro Taxi service area differs from the yellow taxi service area. Boro Taxis may only pick up passengers in the parts of the city where yellow taxis rarely cruise (i.e., Northern Manhattan, Brooklyn, Staten Island, The Bronx, and Queens).

This section begins with a brief history of yellow taxi accessibility in NYC. It then describes accessibility efforts through 2011 in the for-hire vehicle industry.

Yellow Taxis

Accessible Medallion Sale. Before 2004, with the exception of a short-lived pilot program in 1998-1999, there were no accessible taxis in NYC. In 2004, following a 2003 City Council mandate, the City sold the first 81 "accessible medallions." Unlike other "unrestricted" medallions, which can be used with any vehicle on the approved vehicles list, or "alternative fuel" medallions, which can be used with any approved hybrid vehicle, these medallions could *only* be used on vehicles that are wheelchair-accessible.¹⁵ In 2006 through 2008, the City sold a total of 150 additional accessible medallions, bringing the total to 231 accessible medallions. At any given time, there are a few additional accessible taxis on the road whose owners purchased accessible taxis even though they were not required to do so.

Accessible Dispatch Demonstration Project. Although putting 231 accessible taxis on the road was a step in the right direction, with a taxi fleet that was less than 2% accessible the likelihood that a wheelchair user waiting at a given intersection would be able to successfully flag down an available accessible

¹⁴ These values pertain generally to medallions unrestricted as to type of vehicle or restricted for use with alternative fuel vehicles. To date, there has been almost no transfer activity among medallions restricted for use to vehicles accessible to persons in wheelchairs.

¹⁵ Each medallion also has a designation of "minifleet" or "independent." Minifleet medallions must be owned in groups of at least two, whereas any entity may only own one independent medallion. Some independent medallions also have requirements that the medallion owner personally operate the vehicle.

taxicab within a reasonable period of time was low. In 2008, in an attempt to better match wheelchair users with the limited number of wheelchair-accessible taxicabs, the City launched an accessible dispatch demonstration project. This two-year demonstration project, which operated through funds secured by the NYC Council, enabled a passenger to request (through 311 or by contacting the dispatching service directly) that an accessible taxicab be dispatched to his or her location. The driver would assist the passenger in boarding the taxi and the passenger would pay the driver the normal fare. All vehicles operating with wheelchair-accessible medallions were required to participate in the program.

The pilot program had relatively low utilization (about eight trips per day) and high per-trip costs (\$172 per trip). TLC conducted an extensive review of the demonstration project and identified problems with its design that likely drove low utilization and high costs. This included (1) insufficient economic incentive for drivers to participate (drivers were not compensated for the "deadhead" portion of the trip), (2) lack of meaningful penalties for drivers who failed to comply with program rules, (3) insufficient outreach to inform the wheelchair-using community that the service was available, and (4) lack of service standards to ensure passengers were picked up in a timely fashion. Although the demonstration project did not generate large ridership, it enabled the City to learn a great deal about what elements would be needed to roll out a successful dispatch program in the future. TLC used lessons from the demonstration project to develop a far more successful dispatch program (described in Section II(B)(1) of the DAP).

For-Hire Vehicles

TLC Rule 6-07(f) has been in place since 2000 to aid New Yorkers who use wheelchairs in gaining access to accessible FHV¹⁶. This rule requires that all FHV companies (also known as "bases") provide a ride in a wheelchair-accessible vehicle to anyone who requests one. The rule requires that the service is equivalent to that provided to non-wheelchair-using passengers in terms of response time, fare, and hours and days of service availability. Although FHV services can comply with 6-07(f) by purchasing their own accessible vehicles, most instead contract with a "6-07(f) provider" to provide this service when it is requested. There is no limit to the number of bases with which each 6-07(f) provider can contract, so in 2012 the entire 44,000-vehicle FHV industry was sharing just 23 wheelchair-accessible vehicles.

Although this system is a step in the right direction in that it begins incorporating accessible service into the FHV industry, accessible service in the FHV industry needed to improve. TLC compliance checks have found that by quoting passengers requesting accessible service higher fares or longer wait times than other passengers, some car services violate the rule's stipulation that they provide "equivalent" accessible service. Considering what we understand to be low program utilization (one 6-07(f) provider said 100 calls "is a very good month"), costs associated with it are high (a base fee of \$300 to \$600 per year per car service plus \$30-\$50 per trip). Low utilization is likely driven by several factors, including the availability of lower-cost Access-A-Ride and the high rates/long wait times sometimes quoted by car services. There also has likely been insufficient outreach about the availability of the service, which has led to a lack of knowledge among potential customers that the accessible service is available. This rule remains in effect today, although the recent introduction of accessible HAIL vehicles has independently increased the level of accessible service available in neighborhoods outside the Manhattan Core and

¹⁶ Since April 2011 this has been TLC Rule 59-17(c).

presents the most promising opportunity to bring meaningful wheelchair-accessible service to these areas.

Appendix B. Details of Accessibility Phase In Rules.

The accessible yellow taxi phase in program approved on April 30, 2014 by the Commission will begin on the earlier of January 1, 2016 or when there is a vehicle available that meets both TLC's standards for accessible taxicabs and the requirements for alternative fuel taxicabs set forth in the City of New York's Administrative Code (the "Accessible Conversion Start Date"). Medallion owners will be required to put accessible yellow taxis into service as follows:

- **Accessible Medallion Owners** (independent and minifleet): All accessible medallions will continue to be required to provide accessible service.
- **Minifleet Unrestricted Medallion Owners:** Minifleet medallions must be owned in groups of at least two and are most often owned in pairs.
 - **Two-Medallion Minifleets:** When an ownership unit consists of two medallions, the medallion in each pair that is set to retire soonest after the Accessible Conversion Start Date must be hacked-up as an accessible vehicle.
 - **Larger Minifleets:** For ownership units consisting of more than two medallions, every medallion scheduled to retire after the Accessible Conversion Start Date must be hacked up with an accessible vehicle until at least one half of the ownership unit's medallions are being used with accessible vehicles.

After this initial set of conversions, owners are free to choose which of their medallions fulfill each ownership unit's 50% accessibility requirement at a given time.

- **Unrestricted Independent Medallion Owners.** In any given year, half of independent unrestricted medallion owners will be required to operate accessible vehicles and the other half will be allowed to operate accessible or non-accessible vehicles. Through this system, independent medallion owners have a responsibility similar to minifleet medallion owners in that 50% of the time (rather than 50% of their medallions, since no entity may own more than one independent medallion) they will be required to provide accessible service.
- **Alternative Fuel Medallion Owners:** Minifleet and independent alternative fuel medallion owners will begin to have accessibility phase in requirements that mirror those of minifleet and independent unrestricted medallion owners, respectively, once an accessible vehicle that complies with hybrid vehicle availability requirements in the Administrative Code becomes available.

Appendix C. Existing Supply of Street Hail Service.

BORO TAXIS

2 Months After
October 2013

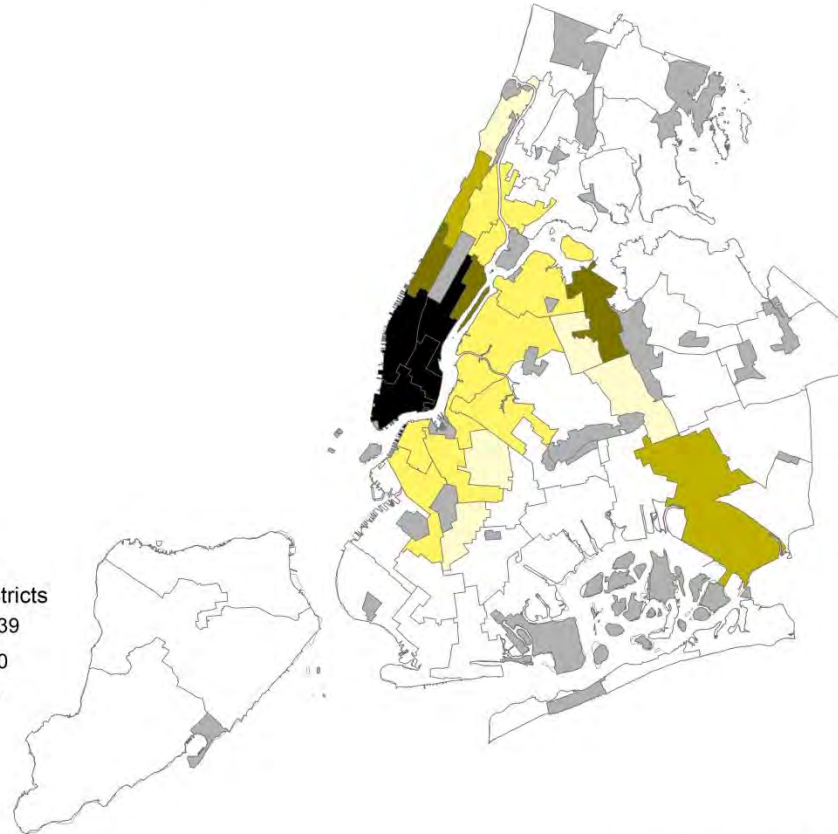
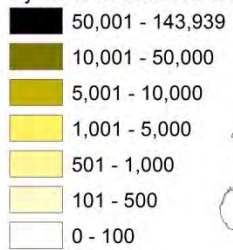
7 Months After
March 2014



Supply of Yellow Taxis

YELLOW TAXIS

Number of Pickups
By NYC Council Districts

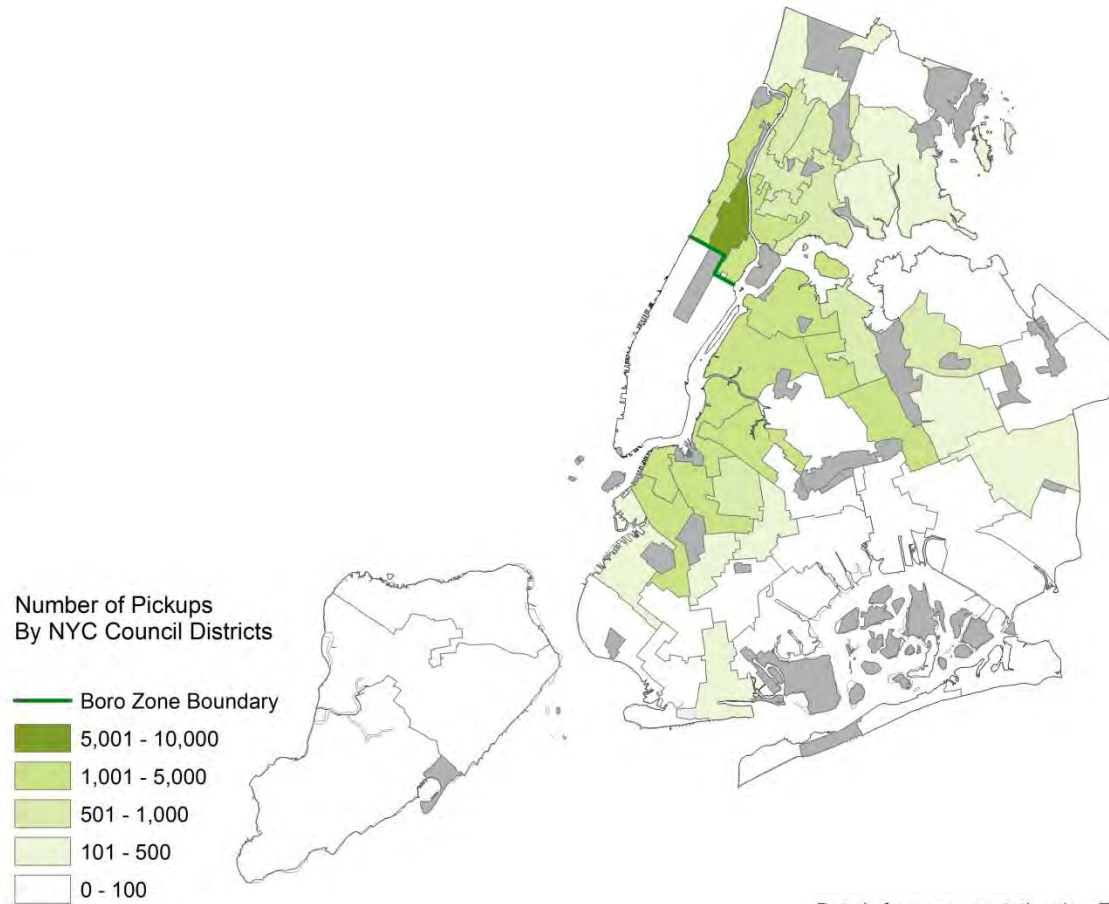


Data is from representative day: Thursday, March 27, 2014

Source TLC Trip Record Data

BORO TAXIS

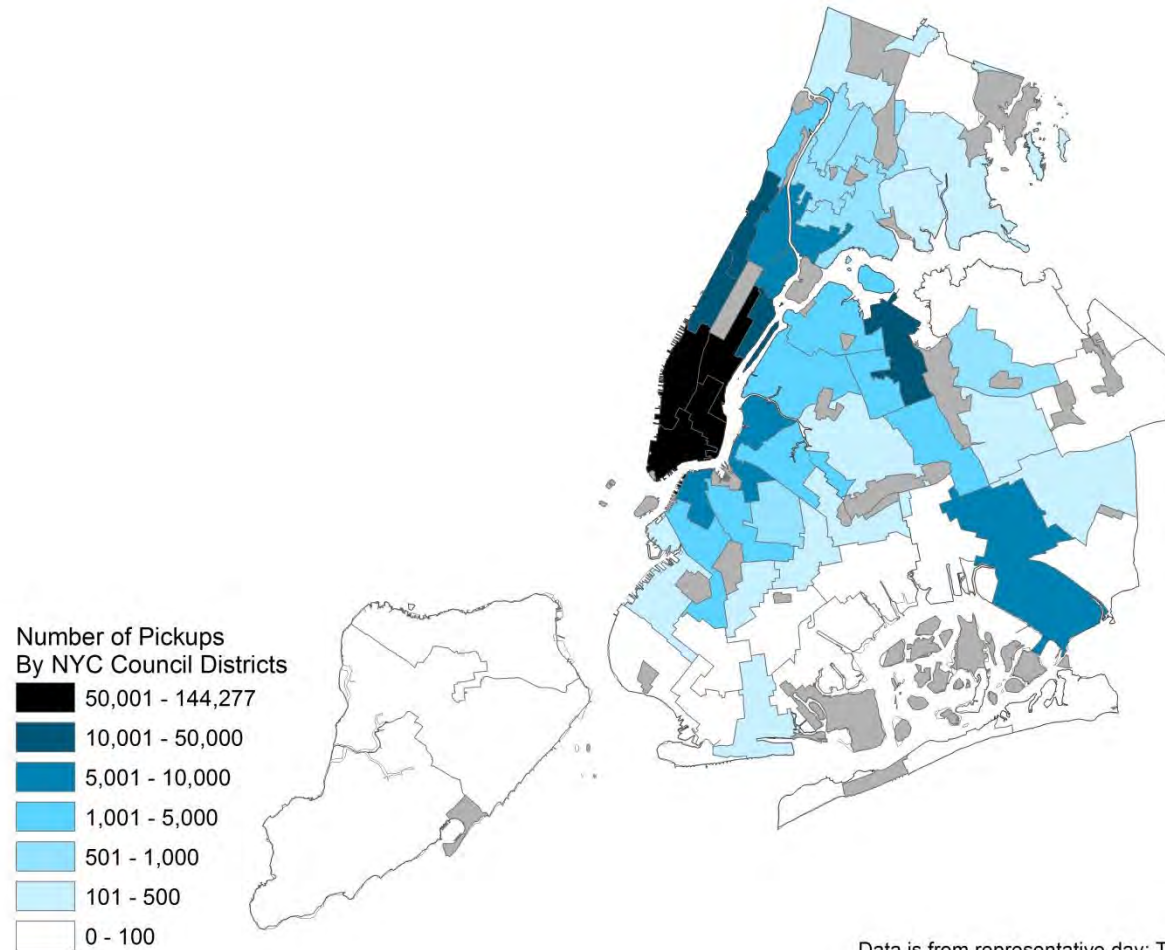
Supply of Boro Taxis



Data is from representative day: Thursday, March 27, 2014
Source TLC Trip Record Data

YELLOW TAXIS + BORO TAXIS

Combined Supply of Yellow Taxis and Boro Taxis



Data is from representative day: Thursday, March 27, 2014
Source TLC Trip Record Data

Taxis for All Campaign, et al. v. Taxi and Limousine Commission, et al.

I. IMPLEMENTATION AGREEMENT

The parties have entered into a binding memorandum of understanding (MOU) with respect to the case of *Taxis for All Campaign, et al. v. Taxi and Limousine Commission, et al.* The agreement executed on November 27, 2013 outlining proposed rules transitioning the medallion taxi fleet to 50% accessible vehicles will herein be referred to as "MOU" or "The MOU." The parties agreed to implement that MOU as follows:

A. COMMENCEMENT OF THE RULEMAKING

Defendants shall, within 30 days of executing the MOU, commence the regulatory process described in Sections II and III of the MOU.

B. STAY OF LITIGATION

The parties shall jointly and immediately ask the Court to stay all future proceedings, including trial, pretrial, discovery and motion practice in the above- referenced action.

If, within 30 days of executing the MOU, Defendants have not commenced the regulatory process described in Sections II and III of the MOU, either party may request that the Court lift the stay so that either party may resume litigation in the matter.

If, by March 31, 2014, Defendants have not adopted the rules contemplated by the MOU or taken other equivalent action, Plaintiffs may request that the Court lift the stay on the litigation.

C. SETTLEMENT AGREEMENT/RULE 23 HEARING

In the event that the proposed rules contemplated by the MOU are adopted, the parties agree that within 20 days of the adoption of said rules, the parties will submit a settlement agreement to the Court for approval pursuant to Fed. R. Civ. P. 23. The parties shall endeavor to negotiate a proposed Rule 23 settlement agreement prior to such a time.

If, by April 21, 2014, the parties have not signed and submitted a Rule 23 settlement agreement to the Court, Plaintiffs may request that the Court lift the stay on the litigation.

D. DISMISSAL OF LITIGATION

If, at any time prior to January 1, 2020 (i) the regulation that is adopted as a result of the MOU is withdrawn or materially altered; or (ii) Defendants fail to comply, or fail to cause the appropriate governmental body to comply, in any material respect with

the MOU, Plaintiffs may request that the Court lift the stay and proceed with litigation on the existing claims of discrimination under Federal and local statutes.

If, on January 1, 2020 (or December 31, 2020 as provided for in Section III(D) of the MOU), the regulation which is the subject of the MOU has been enacted, fully implemented (including, without limitation, by implementing at least 50% accessibility of the taxi fleet as a whole as provided in the MOU), and remains in effect the parties will submit a stipulation for endorsement by the Court, dismissing the above referenced action with prejudice.

E. SUPPORT FOR REGULATION

Defendants agree that Taxi and Limousine Commissioner/Chair David Yassky will publically endorse this resolution in cooperation with Plaintiffs.

F. DISPUTE RESOLUTION

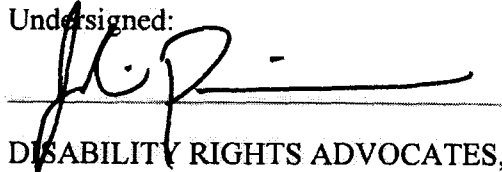
The Parties shall attempt to resolve any dispute, concern, or perceived violation of the MOU and/or Implementation Agreement. Plaintiffs shall notify Defendants' Counsel in writing of any perceived non-compliance by Defendants with the terms of the MOU and/or Implementation Agreement. Unless otherwise agreed to by the Parties with respect to any particular dispute, the Parties agree to meet and confer in good faith, within ten (10) business days after a dispute is raised to discuss and try to resolve such dispute without the assistance of a Mediator.

Failing a resolution by the parties or upon a failure to timely meet and confer, any Party may submit the dispute to the Mediator, who shall have authority to assist the Parties in resolving the dispute but who shall not have the authority to direct any Party to take or refrain from taking any action or to render decisions. The positions of the Parties and the Mediator in any mediation under this agreement shall be confidential. Failing resolution of a dispute with the Mediator, any Party may, within thirty (30) days of the unsuccessful mediation, submit the issue to the Court for decision. If exigent circumstances exist, a party may seek Court review before the mediation has concluded, but a party must provide written notice and an explanation of the urgent conditions to the Mediator and the other parties before doing so. Any order by the Court shall be subject to appeal by any party.

"Mediator" refers to the person mutually selected by the Parties to assist with the resolution of disputes.

DATE: November 27, 2013

Undersigned:

A handwritten signature in black ink, appearing to be 'J.P.', written over a horizontal line.

DISABILITY RIGHTS ADVOCATES, ON BEHALF OF ALL PLAINTIFFS

By: Julia Pinover, Esq.

A handwritten signature in black ink, appearing to be 'Michelle', written over a horizontal line.

OFFICE OF THE CORPORATION COUNSEL OF THE CITY OF NEW YORK,
MICHAEL A. CARDOZO, ON BEHALF OF ALL DEFENDANTS

By: Michelle Goldberg-Cahn
Assistant Corporation Counsel

MEMORANDUM OF UNDERSTANDING

Taxis for All Campaign, et al. v. Taxi and Limousine Commission, et al.

I. NO ADMISSION OF LIABILITY

A. By entering into this agreement, Defendants do not admit liability, Plaintiffs do not waive any claim for attorneys' fees, and Defendants do not waive any right to object to any such claim.

II. COMMITMENT TO ACCESSIBILITY

A. Within thirty days of the execution of this MOU, Defendants agree to commence rulemaking that would require taxicab medallion owners to utilize accessible taxicab vehicles on a phased in schedule until at least 50% of the taxi fleet is comprised of wheelchair accessible vehicles ("Proposed Rules").

B. The commitment to accessibility contained in this agreement is not linked to the Nissan NV200 Taxi, the Taxi of Tomorrow program, or to any particular vehicle or program.

C. The conversion period from inaccessible to accessible vehicles shall commence the earlier of: (1) the date on which there is a commercially available vehicle that meets the requirements of New York City Administrative Code § 19-533 and can also be converted to accommodate the transportation of persons in wheelchairs in accordance with the Americans with Disabilities Act ("ADA"); or (2) January 1, 2016 ("the start date"). Commencing on the start date and continuing until 50% accessibility has been reached, the parties shall proceed as described in Part III.

III. PHASED IN TRANSITION TO ACCESSIBILITY

A. The proposed rules shall require that accessibility be phased in during the regular replacement schedule set forth in the version of the rules of the New York City Taxi and Limousine Commission in effect as of November 19, 2013. No medallion owners would be required to retrofit their medallion taxicab vehicles used in taxicab service prior to the date such medallion owner is required to purchase an accessible vehicle under the Proposed Rules.

B. Accessible vehicles shall be phased in to replace inaccessible vehicles in accordance with the Proposed Rules.

C. The Proposed Rules shall ensure that, consistent with all applicable laws, after the start date, not less than 50% of medallion taxicab vehicles put in service in any year be wheelchair accessible; provided, however, that if as of any particular date, 50% or more of the vehicles put into service since the start date are accessible, there shall be no violation of this agreement if in any given year less than 50% of the new vehicles put into service are wheelchair accessible.

D. Notwithstanding any other provision of this agreement, the Proposed Rules shall ensure that 50% of the medallion taxicab vehicles are accessible vehicles no later than January 1, 2020; provided, however, that if as of such date: (1) 50% or more of vehicles put into service since the start date are accessible; and (2) inaccessible vehicles scheduled to be retired and replaced with accessible vehicles during the year 2020 are sufficient to get to 50% of the total fleet, then such date shall be extended to December 31, 2020. The 50% accessibility requirement shall not be considered as a ceiling on accessibility.

IV. REPORTS AND MONITORING

A. Implementation and Reporting

1. The Court in the case of Taxis for All Campaign, et al. v. Taxi & Limousine Commission, et al., 11 CV 237 (GBD), will retain jurisdiction for enforcement of and compliance with this agreement.

2. Defendants agree to produce periodic reports as may be agreed upon to Plaintiffs as to implementation of this agreement.

B. Rulemaking

Within thirty days, Defendants shall publish Proposed Rules to commence rulemaking to make such changes to TLC regulations and rules as would be necessary to implement this agreement.

C. Binding Agreement

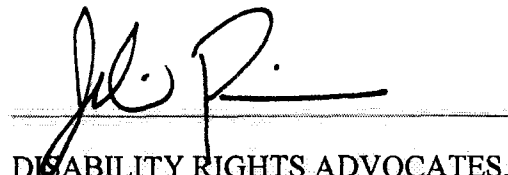
1. It is the intent of all parties that this document be a fully binding agreement, provided however that, regarding the rulemaking, the Defendants are binding themselves only to proposing rules as described above. As set forth in the accompanying Implementation Agreement, in the event that the Proposed Rules are not adopted, Plaintiffs may request that the Court lift the stay on the litigation, but

Defendants shall in no way be otherwise liable for a failure to adopt the proposed rules.

2. The parties further agree that they will make best efforts to resolve any disagreements arising from this memorandum of understanding in accordance with the dispute resolution procedure set forth in the accompanying Implementation Agreement.

DATE: November 27, 2013

Undersigned:

A handwritten signature in black ink, appearing to read 'Julia Pinover', is written over a horizontal line.

DISABILITY RIGHTS ADVOCATES, ON BEHALF OF ALL PLAINTIFFS

By: Julia Pinover, Esq.

A handwritten signature in black ink, appearing to read 'Michelle Goldberg-Cahn', is written over a horizontal line.

OFFICE OF THE CORPORATION COUNSEL OF THE CITY OF NEW YORK,
MICHAEL A. CARDOZO, ON BEHALF OF ALL DEFENDANTS

By: Michelle Goldberg-Cahn
Assistant Corporation Counsel



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*86 Chambers Street
New York, New York 10007*

October 13, 2011

BY HAND

The Honorable George B. Daniels
United States District Judge
Daniel Patrick Moynihan
United States Courthouse
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: Noel v. New York City Taxi and Limousine Commission
11 Civ. 00237 (GBD)

Dear Judge Daniels:

I write respectfully, on behalf of the United States of America (the "Government") to inform the Court of our filing of a Statement of Interest and supporting Declaration of Natalie N. Kuehler in the above-titled case in connection with the parties' pending cross-motions for summary judgment regarding the Defendants' liability under Title II of the Americans with Disabilities Act of 1990, as amended, ("ADA"), 42 U.S.C. § 12101, *et seq.*

Although the Government is not a party to this action, the Attorney General has authority to enforce Title II of the ADA, for which the Department of Justice has issued regulations implementing Subtitle A and the Department of Transportation has issued regulations implementing Subtitle B. The United States, therefore, has a strong interest in this matter, and agrees with Plaintiffs' position that the Defendants are subject to the requirements of Title II of the ADA, and are not presently complying with those requirements in their operation of New York City's taxicab fleet. Specifically, although the Defendants are required under Title II's Subtitle B to either ensure that all new taxicab vehicles are accessible or that equivalent alternative service is provided to individuals with disabilities, the Defendants are not complying with either option.

The Government, therefore, is filing its Statement of Interest to request that the Court grant Plaintiffs' partial motion for summary judgment on liability and hold that Title II of the ADA applies to Defendants' operation of New York City's taxicabs. The Government also respectfully requests the opportunity to be present at all upcoming hearings, including the November 22, 2011, argument scheduled in connection with the parties' pending cross-motions for summary judgment.

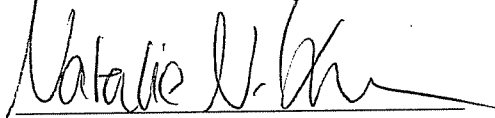
The Honorable George B. Daniels
October 13, 2011

Thank you for your consideration of this matter.

Respectfully,

PREET BHARARA
United States Attorney

By:



NATALIE N. KUEHLER
Assistant United States Attorney
Telephone: (212) 637-2741
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Encls.

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(w/ enclosures)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X
CHRISTOPHER NOEL, SIMI LINTON, UNITED :
SPINAL, a nonprofit organization, THE TAXIS :
FOR ALL CAMPAIGN, a nonprofit organization, :
504 DEMOCRATIC CLUB, a nonprofit :
organization, DISABLED IN ACTION, a :
nonprofit organization, :
:
Plaintiffs, : 11 Civ. 0237 (GBD)
:
- against - :
:
NEW YORK CITY TAXI AND LIMOUSINE :
COMMISSION, a charter mandated agency, and :
DAVID YASSKY, in his official capacity as :
chairman and commissioner of the New York City :
Taxi and Limousine Commission, :
:
Defendants. :
----- X

**STATEMENT OF INTEREST
OF THE UNITED STATES OF AMERICA**

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NATALIE N. KUEHLER
Assistant United States Attorney
- Of Counsel -

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The United States, by its attorney, Preet Bharara, United States Attorney for the Southern District of New York, respectfully submits this Statement of Interest, pursuant to 28 U.S.C. § 517,¹ in support of Plaintiffs’ Motion for Partial Summary Judgment regarding the applicability of the Americans with Disabilities Act of 1990, as amended, (“ADA”), 42 U.S.C. § 12101, *et seq.*, to Defendants’ operation and regulation of New York City taxicabs. Like Plaintiffs’ motion for partial summary judgment, this Statement of Interest addresses only Defendants’ liability under the ADA, and does not require the Court to consider an appropriate remedy at this time.

PRELIMINARY STATEMENT

This litigation implicates, among other things, the proper interpretation and application of Title II of the ADA to the largest taxicab fleet in the country. Specifically, the complaint alleges that the New York City Taxi and Limousine Commission (“TLC”) and David Yassky, TLC’s Chairman and Commissioner (collectively, “Defendants”), are discriminating against persons with disabilities in violation of Title II of the ADA by failing to ensure that New York City’s iconic taxicab fleet is accessible to individuals with mobility disabilities who use wheelchairs.² In their pending Motion for Partial Summary Judgment, Plaintiffs seek an order establishing Defendants’ liability for violating Title II of the ADA and its implementing regulations.

The Attorney General has authority to enforce Title II of the ADA, and pursuant to Congressional mandate, the Department of Justice has the authority to issue regulations implementing Subtitle A of Title II, while the Department of Transportation (“DOT”) has the

¹ 28 U.S.C. § 517 states that “[t]he Solicitor General, or any officer of the Department of Justice, may be sent by the Attorney General to any State or district in the United States to attend to the interests of the United States in a suit pending in a court of the United States, or in a court of a State, or to attend to any other interest of the United States.”

² A “wheelchair” for purposes of this submission is defined as any mobility aid with three or four wheels, whether operated manually or through the use of power. *See also* 28 C.F.R. § 35.104.

authority to issue regulations implementing Subtitle B of Title II. 42 U.S.C §§ 12134, 12145.

The United States, therefore, has a strong interest in this matter.

New York City's taxicabs³ are "affected with a public interest" and "a vital and integral part of the transportation system of the city." 5 N.Y.C. Admin. Code § 19-501; *see also* 65 N.Y.C. Charter § 2300 (the TLC is charged with "establish[ing] an overall public transportation policy governing taxi ... services as it relates to the overall public transportation network of the city"); Declaration of Andrew Salkin, First Deputy Commissioner of TLC, submitted on October 6, 2008 (the "Salkin Declaration"), at 5 ("Section 2300 of [the City's] Charter charges the TLC with the mission of transforming the yellow taxicabs into an essential part of the City's public transportation system.").⁴ New Yorkers use taxicabs as an essential addition to the City's subway and bus systems because, among other reasons, taxicabs provide door-to-door transportation, allow for the transportation of luggage and other heavy items, and have significant safety and security advantages over buses and subways. *See* Salkin Dec. ¶¶ 9, 10.

This important facet of the City's public transportation system is administered by the TLC, a public entity as defined by the ADA, whose wide-ranging purpose is "the continuance, further development and improvement of taxi and limousine service in the city of New York." N.Y.C. Charter § 2300. As such, the TLC is subject to Subtitle B of Title II of the ADA, as well the implementing regulations issued by the United States Department of Transportation (the "DOT Regulations"). *See* 42 U.S.C. § 12144, *et seq.*; 49 C.F.R. § 37 *et seq.* Subtitle B of Title

³ Taxicabs are defined as "motor vehicle[s] carrying passengers for hire in the city, designed to carry a maximum of five passengers, duly licensed as a taxi cab by the [TLC] and permitted to accept hails from passengers in the street." 5 N.Y.C. Admin. Code § 19-502. Taxicabs are not permitted to accept passengers by prearranging service through a radio or dispatch system. *See id.*

⁴ The Salkin Declaration was submitted by the City of New York in the lawsuit *Metropolitan Taxicab Board of Trade v. City of New York*, 08 Civ. 7837 (PAC) (Docket No. 26), and is attached as Exhibit A to the Declaration of Natalie N. Kuehler in Support of the United States' Statement of Interest (the "Kuehler Declaration"), dated October 12, 2011.

II provides that any public entity that operates a demand responsive public transportation system, like the New York City taxicab fleet, discriminates against individuals with disabilities within the meaning of Section 12132 of Subtitle A if, in the absence of equivalent alternative service, new vehicles purchased for use on the system are not “readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.” 42 U.S.C. § 12144.⁵

Despite the ADA’s mandate, Defendants are not providing any alternative service for individuals who use wheelchairs and are currently administering New York City’s taxicab fleet in a manner that has resulted in only 232 accessible vehicles in a fleet of 13,237 taxicabs. A determination by this Court that the TLC is obligated to comply with Subtitle B of Title II of the ADA will have a significant impact on the lives of disabled New York City residents and visitors, who, unlike persons without disabilities, already face increased difficulties when using New York’s other modes of public transportation. Such a determination is also particularly timely now, as the City is in the final stages of its “Taxi of Tomorrow” initiative through which the City is selecting a single new vehicle that will be exclusively authorized for use as a New York taxicab as early as 2013.

Although Defendants acknowledge in their papers the need to address the lack of accessibility of New York City’s taxicabs, Defendants take the untenable position that the Court should hold Plaintiffs’ Motion in abeyance until “mid-2012,” when Defendants expect to have implemented an accessible taxicab dispatch system and the state legislature to have passed a bill to increase the number of accessible medallions. *See* Defendants’ Memorandum of Law in Support of their Cross-Motion for Summary Judgment and in Opposition to Plaintiffs’ Motion

⁵ The Government does not argue in this Statement of Interest that the Defendants are also liable under Title II’s Subtitle A. The parties have already extensively briefed Defendants’ liability under Subtitle A, and the Government respectfully refers the Court to the parties’ submissions on this issue. This Statement of Interest focuses solely on Defendants’ liability under Subtitle B.

for Partial Summary Judgment (“Defendants’ Opp. Mem.”), dated September 23, 2011, (Docket No. 40), at 11-12. As an initial matter, Defendants’ argument is based on the assumption that it could be liable under Subtitle A only, which requires “meaningful access” for individuals with disabilities, and not Subtitle B, which requires all taxicab vehicles to be wheelchair accessible or an equivalent alternative system to have been implemented. *Cf. Henrietta D. v. Bloomberg*, 331 F.3d 261, 275 (2d Cir. 2003) (Subtitle A requires “meaningful access” for persons with disabilities to public services) and 42 U.S.C. § 12144 (requiring the purchase of accessible vehicles for use in a demand responsive system unless the system provides “equivalent” service to persons with disabilities). More significantly, Defendants’ future plans have no bearing on whether or not they are in violation of the ADA today, and their expectation that the planned dispatch system will be in place by March 2012 – much less that the TLC will have gathered sufficient data to permit a full analysis of its impact and operations by mid-2012 – is, at best, speculative. Defendants should not be allowed to continue to violate the ADA for an indeterminate amount of time based on their hope that the dispatch system will operate smoothly and the state legislature will pass a bill. Rather, a ruling by this Court now that the City is obligated to ensure that all new taxicabs are wheelchair accessible is all the more important because it will likely have a significant impact on both the City’s implementation of an accessible taxicab dispatch system and its selection of the vehicle that will become the “Taxi of Tomorrow.”

STATEMENT OF FACTS

New York City’s yellow taxicabs are an internationally recognized symbol of the City, and yet they are inaccessible to the tens of thousands of disabled New Yorkers and countless visitors each year who rely on wheelchairs and other mobility devices. As Commissioner

Yassky recently stated, “[t]axis are a key part of our City’s transportation network, and provide over half a million trips ... each day. New Yorkers depend on cabs to pick up groceries, make it to an afternoon meeting, or enjoy a night out on the town.” Testimony of David Yassky to the City Council Transportation Committee, dated April 27, 2011 (attached as Exhibit B to the Kuehler Declaration). Given the essential services provided by the taxicab fleet, New York City’s charter declares that the fleet “is affected with a public interest, is a vital and integral part of the transportation system of the city, and must therefore be supervised, regulated and controlled by the city.” 5 N.Y.C. Admin. Code § 19-501. The TLC was created to fulfill that role. *See* Salkin Dec. ¶ 4.

The TLC “does more than merely regulate yellow cabs.” Salkin Decl. ¶ 5. Instead, it is charged with “the mission of transforming the yellow taxicabs into an essential part of the City’s public transportation system,” as well as with the development and effectuation of a broad public policy” “in aid of the continuation, development and improvement of service and safety and convenience of the public.” *Id.* (citing N.Y.C. Charter §§ 2300 and 2303). The TLC exercises this mandate by exclusively licensing medallion owners, vehicles, and drivers, and “comprehensively regulat[ing] them, in effect allowing TLC to control all facets of taxicab use.” *Id.* ¶ 7. TLC has chosen to operate the City’s taxicabs in this manner because it “has proven the most effective way to provide taxicab service as part of the City’s public transportation network.” *Id.* ¶ 8.

One of the many ways in which the TLC tightly controls New York City’s taxicabs is through the issuance of medallions. Deposition of Ashwini Chhabra (“Chhabra Tr.”), attached as Exhibit C to the Declaration of Julia Pinover in Support of Plaintiff’s Motion for Partial Summary Judgment (the “Pinover Dec.”) (Docket No. 39-3), at 53:16-54:12. All New York

taxicabs must have valid, TLC-issued medallions, or licenses, authorizing them to pick up passengers for hire. *Id.* To bid for a new medallion, or purchase an existing one, potential buyers must, among other things, certify compliance with the TLC's rules as a condition of receiving and retaining the medallion. *See, e.g.,* the TLC's Affidavit of Non-Reliance, available at www.nyc.gov/html/tlc/downloads/pdf/nonreliance_aff.pdf, and the TLC's Official Bid Form for Corporate (Minifleet) Accessible Medallions, available at www.nyc.gov/html/tlc/medallion/downloads/pdf/bid_form_corp_mini_accessible.pdf, attached as Exhibits C and D to the Kuehler Dec. Potential buyers also have to certify that they have not relied on any statements or representations by the TLC in connection with their bid for, or purchase of, a medallion, and hold the TLC harmless from any claims arising out of the ownership of the medallion. *See id.*

The TLC's control over the City's taxicab fleet is also demonstrated by its planned dispatch program for the few accessible taxicabs that exist. *See* Chhabra Dec. ¶¶ 30-43. This dispatch system is being configured by the TLC and will be controlled by it. *See id.* Among other things, the TLC issued requests for proposals for the dispatch system from private contractors, the TLC determined how the dispatch system should operate and what improvements are required over a pilot program that was in place through June 2010, the TLC selected the vendor who will provide the dispatch service and will enter into a contract with that vendor, and users of the dispatch system will have to call the City's own 311 telephone number to order an accessible vehicle for pick-up. *See id.* ¶¶ 30-31; 33-35, 37, 42. The TLC will also enforce compliance with the dispatch program by, among other things, issuing summonses with high monetary penalties and the threat of licenses revocations. *Id.* ¶ 39.

There are currently 13,237 medallion taxicabs in New York City, and 26 different vehicles that TLC has approved for use as taxicabs. Defendants' Answer ¶ 33; Declaration of Ashwini Chhabra, dated September 23, 2011 (the "Chhabra Dec."), Docket No. 46, ¶¶50-51; *For a Minute, Ford Transit Connect Is a Taxi of Tomorrow*, N.Y. Times, July 21, 2011, attached as Exhibit L to the Pinover Dec. (Docket No. 39-12). However, only 231 of the 13,237 medallions issued require the use of an accessible vehicle, and only one of the 19 vehicle models authorized for use as a taxicab is accessible. *Id.*; Defendants' Answer ¶ 33; Pinover Dec. Ex. C (Chhabra Tr.) at 61:2-9. Of the 13,006 taxicabs with unrestricted medallions, only one owner has decided to purchase an accessible vehicle, bringing the total number of accessible taxicabs in New York to 232. Pinover Dec. Ex. C (Chhabra Tr.) at 61:2-9. In other words, 98.2% of the City's taxicabs are not accessible to wheelchair users. Pinover Dec. Ex. C (Chhabra Tr.) at 70:16-22; *Closing the Accessibility Gap: A Report on the TLC's Wheelchair-Accessibility Policies and Recommendations for Improving Accessible Taxi and For-Hire Vehicle Service in New York City*, attached as Exhibit E to the Pinover Dec. (Docket No. 39-5).

Moreover, the 232 accessible taxicabs are, of course, not always in the service at the same time, and wheelchair users have to compete with persons without mobility impairments, who "can use accessible cabs whenever wheelchair cabs are available." Pinover Dec. Ex. C (Chhabra Tr.) at 53:7-15. As a result, while the likelihood of a non-disabled person hailing a cab within ten minutes is 87.33%, the likelihood that a person with a disability will be able to secure an accessible cab is a mere 3.31%. *See* Declaration of Douglas Kruse in Support of Plaintiff's Motion for Partial Summary Judgment (Docket No. 41), ¶¶ 14-15. At the same time, individuals who use wheelchairs are more heavily dependent on taxicab service than non-disabled persons. *See* Declaration of Susan Dooha, dated August 11, 2011, ¶¶ 11, 21. For example, during last

month's mandatory evacuation of certain flood-prone areas of New York City in advance of Hurricane Irene, the TLC had to make special arrangements for the use of accessible taxicabs to evacuate individuals with mobility impairments who were not able to get to safety using the City's bus or subway systems, or the other special means of evacuation the City provided. *See* Emails among Ashwini Chhabra, Gene Freidman and Ethan Gerber, dated August 27, 2001 through September 1, 2011 (attached as Exs. E through G to the Kuehler Declaration). Even in everyday situations, however, individuals who use wheelchairs are unable to depend on alternative means of transportation, such as the subway and bus systems, to the same extent as non-disabled persons. *See* Declaration of Chris Noel, dated August 9, 2011 (Docket No. 42), ¶¶ 9-12 (noting that the subway system is less preferable for individuals who use wheelchairs because "an overwhelming number" of subway stations do not have functioning elevators and the bus system does "not serve many of the geographic areas of the City"); Declaration of Simi Linton, dated August 10, 2011 (Docket No. 43), ¶¶ 9-18 (noting that the subway system is a less preferable form of accessible transportation because most stations do not have functioning elevators, and utilizing bus service is difficult and impracticable because direct lines are often unavailable). In short, the TLC does not provide to individuals with mobility impairments alternate service equivalent to that provided by the City's taxicabs. Pinover Dec. Ex. C (Chhabra Tr.) at 16:23-17:6; 104:3-16.

The TLC itself has recognized that this situation is untenable, and one of its "long-term goals [is] 100% accessibility of all our fleets." Testimony of David Yassky to Assembly Committees, dated July 14, 2010 (attached as Exhibit H to the Kuehler Declaration). Nevertheless, the TLC does not require any of the approximately 2,600 new taxicab vehicles that are placed into service every year to be wheelchair accessible unless they are operated under one

of the 231 accessible medallions, and in fact just this year the TLC approved at least three new inaccessible vehicles for use as taxicabs in New York City. Pinover Decl. Exs. C (Chhabra Tr.) at 163:21-164:24 and L. As a result, only 232 accessible taxicabs are currently in service in New York City. Pinover Decl. Ex. C (Chhabra Tr.) at 61:2-9; 164:15-17; Letter from Robin Binder, Assistant Corp. Counsel for the City of New York, to Sally Conway, Deputy Chief of the U.S. Department of Justice's Disability Rights Section, dated April 18, 2011, attached as Exhibit A to the Pinover Dec. (Docket No. 39-1).

ARGUMENT

THE TLC'S OPERATION OF NEW YORK CITY'S TAXICABS VIOLATES TITLE II OF THE ADA.

The TLC's failure to ensure that each new vehicle purchased for use in the City's taxicab fleet is accessible to wheelchair users or to provide equivalent alternative service to individuals with disabilities violates Title II of the ADA. The Court should therefore grant Plaintiffs' motion for partial summary judgment.

A. Standard for Granting Summary Judgment

Pursuant to Rule 56 of the Federal Rules of Civil Procedure, summary judgment is appropriate "if the pleadings, the discovery and disclosure materials on file, and any affidavits show that there is no genuine issue as to any material fact and that the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(c). In determining whether a genuine issue of material fact exists, a court must view all facts, and draw all reasonable inferences, in the light most favorable to the non-moving party. *See Mormol v. Costco Wholesale Corp.*, 364 F.3d 54, 57 (2d Cir. 2004). However, "[t]here is no issue for trial unless there is sufficient evidence favoring the nonmoving party for a jury to return a verdict for that party. If evidence is merely colorable, or is not sufficiently probative, summary judgment may be granted." *Anderson v.*

Liberty Lobby, Inc., 477 U.S. 242, 249-50 (1986) (citations omitted).

B. The ADA and Its Implementing Regulations

Two decades ago, Congress determined that there was a “compelling need” to remedy widespread discrimination against disabled individuals through a “clear and comprehensive national mandate.” 30 S. Rep. No. 101-116, at 20 (1989); H.R. Rep. No. 101-485, pt. 2, at 50 (1990). In 1990, Congress enacted the ADA to implement that broad mandate. *See* 42 U.S.C. § 12101(b). The ADA has a “sweeping purpose,” and “forbids discrimination against disabled individuals in major areas of public life.” *PGA Tour, Inc. v. Martin*, 532 U.S. 661, 675 (2001). As a remedial statute, moreover, the ADA “should be construed broadly to effectuate its purposes.” *Tcherepnin v. Knight*, 389 U.S. 332, 336 (1967); *see also Henrietta D. v. Bloomberg*, 331 F.3d 261, 279 (2d Cir. 2003). Indeed, the ADA’s “comprehensive character” is one of its “most impressive strengths.” Hearings on S. 933 before the Senate Committee on Labor and Human Resources and the Subcommittee on the Handicapped, 101st Cong., 1st Sess., 197 (1989) (statement of Attorney General).

1. Title II of the ADA

Title II of the ADA has been interpreted to reach “all actions by public entities.” *Innovative Health Systems, Inc. v. City of White Plains*, 931 F. Supp. 222, 232 (S.D.N.Y. 1996). Subtitle B of Title II specifically addresses “actions applicable to public transportation provided by public entities considered discriminatory.” 42 U.S.C. Subchapter II, Subtitle B. With respect to demand-responsive transportation systems, *i.e.* public transportation that does not run on a fixed schedule, Title II provides as follows:

If a public entity operates a demand responsive system, it shall be considered discrimination ... for such entity to purchase or lease a new vehicle for use on such system ... that is not readily accessible to and usable by individuals with disabilities, including individuals

who use wheelchairs, unless such system, when viewed in its entirety, provides a level of service to such individuals equivalent to the level of service such system provides to individuals without disabilities.

42 U.S.C. § 12144. The term “operates,” in turn, with respect to a demand responsive system, “includes operation of such system by a person under a contractual or other arrangement or relationship with a public entity.” 42 U.S.C. § 12141(4)⁶. A violation of Subtitle B’s Section 12144 constitutes discrimination under Subtitle A’s Section 12132. 42 U.S.C. § 12144. Responsibility for implementing regulations necessary for carrying out Subtitle B is vested in the U.S. Department of Transportation (“DOT”). 42 U.S.C. § 12149(a).

2. DOT’s Implementing Regulations

DOT’s implementing regulations require public entities operating a demand responsive system for the general public who “purchase or lease a new bus or other new vehicle for use on the system” to “ensure that the vehicle is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.” 49 C.F.R. § 37.77(a). The only exception to the general rule that all new vehicles must be wheelchair accessible is if the system “provides a level of service to individuals with disabilities, including individuals who use wheelchairs, equivalent to the level of service it provides to individuals without disabilities.” *Id.* § 37.77(b).⁷ Like Title II itself, DOT’s regulations define the term “operate” to include “the

⁶ DOT has proposed amending this rule to add the words “(including, but not limited to, a grant, subgrant, or cooperative agreement)” after the word “arrangement”. This proposed change was published in the Federal Register on September 19, 2011, and is expected to go into effect by October 19, 2011.

⁷ To be “equivalent,” the service available to individuals with disabilities must be “provided in the most integrated setting appropriate to the needs of the individual” and must be “equivalent to the service provided other individuals with respect to ... (1) response time; (2) fares; (3) geographic area of service; (4) hours and days of service; (5) restrictions or priorities based on trip purpose; (6) availability of information and reservations capability; and (7) any constraints on capacity or service availability.” 49 C.F.R. § 37.77(c).

provision of transportation service by a public or private entity itself or by a person under a contractual or other arrangement or relationship with the entity.” 49 C.F.R. § 37.3.

Indeed, DOT’s implementing regulations expressly provide that, “[w]hen a public entity enters into a contractual or other arrangement or relationship with a private entity to operate ... demand responsive service, the public entity shall ensure that the private entity meets the requirements of this part that would apply to the public entity if the public entity itself provided the service.” 49 C.F.R. § 37.23(a). This includes the requirement for private entities under contract with public entities to “acquire accessible vehicles in all situations in which the public entity itself would be required to do so.” 49 C.F.R. § 37.23(b). DOT’s implementing regulations are entitled to controlling weight unless they are “arbitrary, capricious, or manifestly contrary to the statute.” *Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837, 844 (1984).

C. New York City’s Taxicabs Are a Demand Responsive Public Transportation System

New York City’s taxicabs operate as a demand responsive public transportation system as defined by the ADA. A “demand responsive system” within the meaning of Title II’s Subtitle B is “any system of providing designated public transportation which is not a fixed route system.” 42 U.S.C. § 12141. A fixed route system, in turn, is defined as “a system of providing designated public transportation on which a vehicle is operated along a prescribed route according to a fixed schedule.” *Id.* In other words, any public transportation service that is not confined to specific routes or schedules is a demand responsive service.

DOT’s implementing regulations further clarify that a demand responsive system “means any system of transporting individuals, including the provision of designated public transportation service ... including but not limited to specified public transportation service,

which is not a fixed route system.” 49 C.F.R. § 37.3. A designated public transportation service, in turn, means “transportation provided by a public entity ... that provides the general public with general or special service, including charter service, on a regular and continuing basis.” *Id.* The regulations, moreover, adopt Title II’s definition of a fixed route service as one “on which a vehicle is operated along a prescribed route according to a fixed schedule.” *Id.*

DOT’s guidance on the construction and interpretation of its implementing regulations explains:

Some systems, like a typical city bus system or a dial-a-ride van system, fit clearly into one category or the other. Other systems may not so clearly fall into one of the categories ... [so] entities must determine, on a case-by-case basis, into which category their systems fall. In making this determination, one of the key factors to be considered is whether the individual, in order to use the service, must request the service, typically by making a call. With fixed route service, no action by the individual is needed to initiate public transportation. If an individual is at a bus stop at the time the bus is scheduled to appear, then that individual will be able to access the transportation system. With demand-responsive service, an additional step must be taken by the individual before he or she can ride the bus, i.e., the individual must make a telephone call. . . . We would regard a system that permits user-initiated deviations from routes or schedules as demand-responsive.

49 C.F.R. § 37, Appendix D, “Section 37.3 Definitions.”

New York City’s taxicab fleet is a “demand responsive system” because, rather than operate on a fixed schedule or along a fixed route, taxicabs roam all five boroughs of the City at will, and must be affirmatively hailed by customers on the street. 5 N.Y.C. Admin. Code § 19-502. In fact, the only manner in which taxicabs are permitted to accept passengers is by street hails. *Id.* Because taxicabs provide transportation service that is not confined to specific routes or schedules, and because passengers “in order to use the service, must request the service” by hailing the taxicabs on the street, New York City’s taxicab fleet clearly provides demand

responsive transportation services. 49 C.F.R. § 37, Appendix D, “Section 37.3 Definitions”; *see also* 42 U.S.C. § 12141.⁸

The fact that this service is part of the City’s public transportation system is also well established. The taxicab fleet’s public transportation purpose was, for example, legislatively codified in the New York City Administrative Code, which states:

It is hereby declared and found that the business of transporting passengers for hire by motor vehicle in the city of New York is affected with a public interest, is a vital and integral part of the transportation system of the city....

N.Y.C. Admin. Code § 19-501 (emphasis added). The New York City Charter, moreover, provides that the TLC was created for the very purpose of “establish[ing] an overall public transportation policy governing taxi ... services as it relates to the overall public transportation network of the city.” 65 N.Y.C. Charter § 2300. Indeed, TLC’s First Deputy Commissioner has testified that “Section 2300 of [the City’s] Charter charges the TLC with the mission of transforming the yellow taxicabs into an essential part of the City’s public transportation system” and that “TLC exercises its public transportation mandate through its power to exclusively license medallion owners, yellowcabs, and drivers, and comprehensively regulate them, in effect allowing TLC to control all facets of taxicab use.” Salkin Dec. at 4-5. In fact, First Deputy Commissioner Salkin recognized that TLC’s current administration of the City’s taxicab fleet “has proven the most effective way to provide taxicab service as part of the City’s public transportation network.” *Id.* at 5.⁹

⁸ The City does not dispute that taxicabs are a demand responsive transportation system. *See* Defendants’ Opp. Mem. at 13 and n. 9 (noting that “[t]axi service is a form of ‘demand responsive service.’”).

⁹ Indeed, the City has previously argued that it is so heavily intertwined with the taxicab fleet as to have a “proprietary interest” in its vehicles despite the fact that those vehicles are purchased by individual medallion holders. *See* Defendants’ Memorandum of Law in Opposition to Plaintiffs’ Motion for a Preliminary or Permanent Injunction or a Summary Declaratory Judgment dated October 6, 2008, submitted in *Metropolitan Taxicab Board of Trade v. City of New York*, 08-Civ-7837 (PAC) (S.D.N.Y.), Docket No. 28. In that action, the City argued that the

Accordingly, because the New York City taxicab fleet is “affected with a public interest,” is “a vital and integral part of the transportation system of the city,” and is controlled by the TLC “as part of the City’s public transportation network,” the City’s taxicabs provide demand responsive public transportation service within the meaning of Title II. 5 N.Y.C. Admin. Code § 19-501; 65 N.Y.C. Charter § 2300; Salkin Dec. ¶ 5.

D. New York City’s Taxicab System Is “Operated” by the TLC

The TLC, moreover, is subject to liability under Subtitle B of Title II and DOT’s implementing regulations because it “operates” New York City’s taxicab fleet. Title II encompasses a public transportation system like New York City’s taxicab fleet, in which the vehicles are not themselves operated by public employees, but rather “by a person *under a contractual or other arrangement or relationship* with [the] public entity.” 42 U.S.C. § 12141(4) (emphasis added); *see also* 49 C.F.R. § 37.3 (the term “operates” includes “the provision of transportation service by a public or private entity itself or by a person under a contractual or other arrangement or relationship with the entity”). The implementing regulations distinguish public entities, such as the TLC, that “operate” a transportation system from private entities that merely receive subsidies, are regulated by, or are granted franchises or permits to operate by public entities’ transportation systems. *See* 49 C.F.R. § 37.37(a).

Here, TLC operates the City’s taxicab fleet because rather than merely regulate the fleet, the TLC exercises extensive control over it. Indeed, the TLC itself has recognized that “the TLC does more than merely regulate yellow cabs.” Salkin Dec. ¶ 5. Instead, it uses the New York

TLC was engaged in proprietary conduct when it imposed emission standards on vehicles used at taxicabs because it was “manag[ing] its own property”. *Id.* at 15-16 (citing *Sprint Spectrum L.P. v. Mills*, 283 F.3d 404, 419 (2d Cir. 2002)). Although the City’s arguments were ultimately unsuccessful because, in setting emissions standards, the City was acting as a regulator not a proprietor, the *Metropolitan Taxicab Board of Trade* Court acknowledged that “taxicabs may be part of the public transportation system” of New York City. *Met. Taxicab Bd. of Trade*, Opinion and Order dated October 31, 2008, Docket No. 51.

City taxicab fleet to provide taxicab service as “an essential part of the City’s public transportation system” through licensed private entities and individuals because that “has proven the most effective way to provide taxicab service as part of the City’s public transportation network.” Salkin Decl. ¶¶ 5, 8. The TLC, therefore, “operates” New York City’s taxicabs within the meaning of Subtitle B.

In fact, the TLC was created for the very purpose of “establish[ing] an overall public transportation policy governing taxi ... services.” 65 N.Y.C. Charter § 2300. The TLC’s role in operating the City’s taxicab system is also codified in the New York City Administrative Code, which provides that “the business of transporting passengers for hire by motor vehicle in the city of New York ... must ... be *supervised, regulated and controlled* by the city.” N.Y.C. Admin. Code § 19-501 (emphasis added). The TLC exercises its control over New York City’s taxicab fleet by, among other things:

establish[ing] certain rates, standards of service, standards of insurance and minimum coverage; standards for driver safety, standards for equipment safety and design; standards for noise and air pollution control; and to set standards and criteria for the licensing of vehicles, drivers and chauffeurs, owners and operators engaged in such services.

65 N.Y.C. Charter § 2300. The TLC, moreover, is empowered to adjudicate “violations of the provisions of the administrative code and rules” it promulgates through an “administrative tribunal established by the commission and governed by the citywide administrative procedure act.” *Id.* § 2303.

The TLC has made expansive use of its ability to control New York City’s taxicab fleet through the promulgation of rules. For example, Chapter 58 of the Rules for the City of New York (“RCNY”) establishes (i) the procedures and requirements for obtaining a taxicab license; (ii) the rules and regulations for operating a taxicab; and (iii) the penalties for any violations. 35

R.C.N.Y. Ch. 58. Chapter 58 spans 95 pages. The TLC has also issued separate rules, spanning 49 pages and codified in Chapter 54 of the RCNY, that establish (i) procedures for the licensing, monitoring and regulation of taxicab drivers; (ii) operating rules to protect the customers and the public; and (iii) penalties for any violations. 35 R.C.N.Y. Ch. 54. Finally, the TLC has issued rules governing taxicab brokers (35 R.C.N.Y. Ch. 62; 15 pages); taxicab agents (35 R.C.N.Y. Ch. 63; 12 pages); taximeter businesses and manufacturers (35 R.C.N.Y. Ch. 64; 26 pages); the sale of taxicab medallions (35 R.C.N.Y. Ch. 65; 14 pages); and the hack-up and maintenance of taxicabs (35 R.C.N.Y. Ch. 67; 21 pages).

The TLC's control over the New York taxicab fleet is exemplified by its proposed accessible taxicab dispatch system, which was fully designed by the TLC and is being implemented by it. *See Chhabra Dec.* ¶¶ 30-43. In fact, the TLC not only ran a two-year pilot program, it also selected the vendor who will be dispatching the accessible cabs, will be enforcing compliance with the program through the issuance of summonses, and even will direct all telephone calls for users of the dispatch program through the City's 311 number. *Id.*

It therefore comes as no surprise that TLC's First Deputy Commissioner himself has testified that the "TLC does more than merely regulate yellow cabs" and, indeed, that the TLC "in effect ... control[s] all facets of taxicab use." *Salkin Dec.* ¶¶ 5, 7. In doing so, the TLC is complying with its obligations under the New York City Administrative Code to not only regulate, but also to supervise and control the City's taxicab system. *See N.Y.C. Admin. Code* § 19-501. Through its extensive rules, the TLC directs virtually every aspect of New York City's taxicab operations, from the drivers' personal appearance and attire, 35 R.C.N.Y. § 54-15(a) ("[a] Driver must be clean and neat in dress and person and present a professional appearance"), to the lease rates owners may charge taxicab drivers, 35 R.C.N.Y. § 58-21(c)(1)

(“[a]n Owner of a Taxicab can charge a lease rate to a Driver that is not greater than the [] Standard Lease Caps” set by the TLC for specific days and shifts).

Significantly for this case, the TLC’s rules also specify that only specific vehicles authorized by the TLC may be used for taxicab service. 35 R.C.N.Y. § 67-05.1. Currently, 26 types of vehicles are authorized by TLC for use as taxicabs, 25 of which are not wheelchair accessible. Pinover Decl. Ex. C (Chhabra Tr. at 95:6-23; 96:2-7; 163:21-164:24); Pinover Decl. Exs. K and L; Chhabra Dec. ¶¶ 50-51. The Government recognizes that the mere issuance of medallions or licenses by a city to private taxi companies, and implementing regulations governing the operation of licensed taxicabs, may not be sufficient to subject a public entity to the requirements of Subtitle B of Title II. It is the extent of TLC’s control of New York City’s taxicab fleet that demonstrates that the New York City taxi system is operated, rather than merely regulated, by the TLC. Of particular note is the fact that the medallion holders are not free to choose the type of vehicle they purchase, and that the “Taxi of Tomorrow” selection is being made by the TLC, not the individual medallion holders. That level of control, combined with the many other TLC rules described herein and the incorporation of the taxi system into the City’s Charter, demonstrates that New York City’s taxis services are operated by the TLC within the meaning of Title II.

The Second Circuit has indicated that public entities that exercise the “requisite control” over private entities through which they operate their services can be subject to Title II liability. *Celeste v. East Meadow Union Free School Dist.*, 373 Fed. Appx. 85, 91 (2d Cir. 2010). Here, given how “heavily integrated with the TLC the New York City taxicab industry is,” Salkin Decl. ¶ 8, the TLC is not merely regulating the City’s taxicabs, but instead is using private medallion holders it controls “to provide taxicab service as part of the City’s public

transportation network.” *Id.* (emphasis added). The TLC, therefore, operates public demand responsive transportation within the meaning of Title II and its implementing regulations. *See* 49 C.F.R. § 37.3 (“*Operates* includes ... *the provision of* transportation service by a public ... entity itself or by a person under a contractual or other arrangement or relationship with the entity”) (emphasis added). Accordingly, the TLC is required to ensure that individual medallion holders comply with all requirements applicable to public entities under Title II. *See* 49 C.F.R. § 37.23(a).

Defendants argue that Title III’s requirements, which extend only to purely private entities providing taxicab service and only require the purchase of accessible vehicles for use at taxicabs if those vehicles are vans, somehow expunge the TLC’s obligation to ensure its fleet complies with the requirements imposed by Title II. *See* Defendants’ Opp. Mem. at 14-15. That argument is misplaced. As the Department of Justice has recognized, “[i]n many situations ... public entities have a close relationship to private entities that are covered by title III, with the result that certain activities may be at least indirectly affected by both titles.” DOJ ADA Technical Assistance Manual § II-1.3000 (1993). Accordingly, DOJ’s Technical Assistance Manual explains that, for example:

A privately owned restaurant in a State park operates for the convenience of park users under a concession agreement with a State department of parks. As a public accommodation, the restaurant is subject to title III and must meet those obligations. The State department of parks, a public entity, is subject to title II. The parks department is obligated to ensure by contract that the restaurant is operated in a manner that enables the parks department to meet its title II obligations, even though the restaurant is not directly subject of title II.

Id. Indeed, “the possibility that the government might be subject to different obligations than [a private entity] with respect to the same property” has been widely recognized because “the ADA

itself expressly contemplates that entities to which it applies might be subject to two or more separate sets of obligations...” *Disabled Rights Action Committee v. Las Vegas Events, Inc.*, 375 F.3d 861, 877 (9th Cir. 2004) (quoting *Fiedler v. Am. Multi-Cinema, Inc.*, 871 F. Supp. 35, 37 (D.D.C. 1994)). Here, while individual medallion owners are also governed under Title III, the TLC is independently required to ensure that the medallion owners purchase vehicles that comply with the TLC’s obligations under Title II because those vehicles are a component of the TLC’s taxicab system.

Accordingly, courts in similar circumstances have found that public entities licensing private individuals are required to ensure the private individuals’ compliance with obligations imposed on public entities under Title II. In particular, courts have found that the mere fact that individual medallion holders may themselves have independent obligations under the ADA is of no import to the TLC’s obligations under Title II. This very issue was litigated in *James v. Peter Pan Transit Mgmt., Inc.*, in which the court held that “the City is not relieved of its [T]itle II obligations merely because [the private entity providing transportation services] is an independent contractor.” No. 5:97-CV-747-BO-1, 1999 WL 735173, at *9 (E.D.N.C. Jan. 20, 1999); *see also Medina v. Valdez*, No. 1:08-CV-00456, 2011 WL 887553, at *5 (D. Idaho Mar. 10, 2011) (same); Civil Rights Division, U.S. Dep’t of Justice, *The Americans with Disabilities Act Title III Technical Assistance Manual* III-1.7000, at 7 (1993) (when “public entities stand in very close relation to private entities that are covered by title III ... certain activities may be affected, at least indirectly, by both titles.”) Similarly, in *Paxton v. State Dept. of Tax and Revenue*, the Supreme Court of West Virginia held that the state’s Lottery Commission was required to ensure that its licensees’ premises were accessible under the ADA. 451 S.E.2d 779, 784-85 (W. Va. 1994). The *Paxton* court came to this conclusion because the Lottery

Commission “does more than merely license lottery locations. It controls and obtains substantial money from the lottery system.” *Id.* at 785. Here, similarly, “the TLC does more than merely regulate yellow cabs,” Salkin Dec. ¶ 5, it “control[s] all facets of taxicab use,” *id.* ¶ 7, and obtains substantial revenue from medallion sales.

Any argument by the TLC that it does no more than a regulatory agency that, for example, issues liquor licenses, is simply wrong. *See, e.g., Tyler v. City of Manhattan*, 849 F. Supp. 1429, 1442, n.24 (D. Kan. 1994) (holding that the City of Manhattan did not violate Title II by issuing liquor licenses and building permits to inaccessible facilities because the City of Manhattan “has not contracted with any establishment licensed to sell or serve liquor for the purpose of providing any kind of government service or benefit to those who frequent such establishments.”); *see also Reeves v. Queen City Transp.*, 10 F. Supp. 2d 1181, 1184, 1187-88 (D. Colo. 1998) (declining to impose liability under Title II on a public agency that “does not offer, directly or indirectly, ... any services or programs to the public” because its function was “limited to regulation of private entities and public utilities that offer such services”).

Here, New York City’s legislature “declared and found” that the City’s taxicab fleet “must ... be supervised, regulated and controlled by the city.” N.Y.C. Admin. Code § 19-501. The TLC, moreover, was specifically created to “establish an overall public transportation policy governing taxi ... services as it relates to the overall public transportation network of the city,” NYC Charter § 2300, and it controls virtually every aspect of the taxifleet’s operations. *See* 35 R.C.N.Y. §§ 54-15(a), 58-21(c)(1), 67-05.1; Salkin Dec. ¶¶ 5, 7. Under these circumstances, the individual medallion holders are part of the program or activity of the TLC to provide public transportation, and the TLC must ensure their compliance with the TLC’s obligations under the ADA. *See Armstrong v. Schwarzenegger*, 622 F.3d 1058, 1068 (9th Cir. 2010) (holding that

state defendants were required under Title II to ensure that county jails run by private entities under contract with the state were ADA compliant); *see also Kerr v. Heather Gardens Ass'n*, Civ. A. No. 09-cv-00409, 2010 WL 3791484, at *11 (D. Colo. Sept. 22, 2010) (holding that “a public entity, who contracts with another entity to perform its duties, remains liable to ensure that the other entity performs those duties in compliance with Title II”); *Indep. Housing Servs. of San Francisco v. Fillmore Center Assocs.*, 840 F. Supp. 1328, 1344 (N.D. Cal. 1993) (holding that private entity providing bond financing under contract with the city’s redevelopment agency was “part of a program or activity of the Agency – the program or activity of urban renewal” and as such was itself subject to liability under Title II). In sum, the TLC must ensure that the New York City taxicab fleet complies with the TLC’s obligations under Title II.

E. The TLC Violates Title II Because It Does Not Ensure That All New Taxicab Vehicles Are Wheelchair Accessible and It Does Not Provide an Equivalent Level of Service to Individuals With Disabilities

Under the ADA, the TLC must ensure that individual medallion holders licensed by the TLC as part of the City’s public transportation network meet the same requirements under Subtitle B of Title II that would apply to the TLC if the TLC provided the service itself. *See* 49 C.F.R. § 37.23(a). Accordingly, the TLC must ensure that individual medallion holders buy and use accessible vehicles in all situations in which the TLC itself would be required to purchase accessible vehicles. *See id.* § 37.23(b). The TLC, however, has failed to do so.

Under the implementing regulations, in the absence of an alternative equivalent service for disabled individuals, the TLC must require that all new vehicles purchased or leased for use as taxicabs after August 25, 1990 are “readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.” *Id.* § 37.77(a). As mentioned above, the TLC does not provide any alternative service to the licensed taxicabs for disabled

individuals. Pinover Dec. Ex. C (Chhabra Tr.) at 16:23-17:6; 104:3-16. The TLC, moreover, has issued only 231 medallions requiring the use of accessible vehicles, and it continues to permit medallion holders to purchase 25 types of inaccessible vehicles for use as taxicabs in New York City. Defendants' Answer ¶ 33; Pinover Dec. Ex. C (Chhabra Tr.) at 61:2-9; Chhabra Dec. ¶¶ 50-51. As a result, only 232 of the City's 13,237 taxicabs are currently wheelchair accessible.

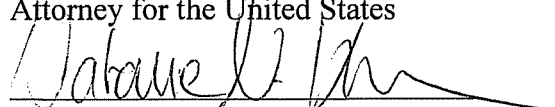
To comply with its obligations under Title II, unless and until the TLC implements equivalent alternative service, it must mandate that all medallion holders who purchase new vehicles for use as taxicabs buy the wheelchair accessible vehicle already authorized by TLC, or any other wheelchair accessible vehicle authorized by TLC for use as a taxicab in the future. *See* 49 C.F.R. § 37.77(a). By failing to require that all new vehicles purchased for use as taxicabs in New York City are wheelchair accessible, the TLC is violating its obligations under Title II of the ADA. *See* 42 U.S.C. § 12144.

CONCLUSION

Accordingly, the Court should grant the Plaintiffs' Partial Motion for Summary Judgment with respect to the applicability of Title II of the ADA to Defendants' operation of New York City's taxicabs.

Dated: October 13, 2011

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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CHRISTOPHER NOEL, SIMI LINTON, UNITED	:	
SPINAL, a nonprofit organization, THE TAXIS	:	
FOR ALL CAMPAIGN, a nonprofit organization,	:	
504 DEMOCRATIC CLUB, a nonprofit	:	
organization, DISABLED IN ACTION, a	:	
nonprofit organization,	:	
Plaintiffs,	:	11 Civ. 0237 (GBD)
	:	
- against -	:	
	:	
NEW YORK CITY TAXI AND LIMOUSINE	:	DECLARATION OF
COMMISSION, a charter mandated agency, and	:	NATALIE N. KUEHLER
DAVID YASSKY, in his official capacity as	:	
chairman and commissioner of the New York City	:	
Taxi and Limousine Commission,	:	
	:	
Defendants.	:	
-----	-	x

I, Natalie N. Kuehler, pursuant to the provisions of 28 U.S.C. § 1746, hereby declare as follows:

1. I am an Assistant United States Attorney in the office of Preet Bharara, United States Attorney for the Southern District of New York, attorney for the United States of America (“the Government”) in the above-captioned matter. I am the attorney that is assigned to this matter.

2. I submit this declaration in support of the Government's Statement of Interest in Support of Plaintiffs' Motion for Partial Summary Judgment.

3. Appended as Exhibit A hereto is a true and correct copy of the Declaration of Andrew Salkin, First Deputy Commissioner of TLC, submitted on October 6, 2008, in *Metropolitan Taxicab Board of Trade v. City of New York*, 08 Civ. 7837 (PAC) (Docket No. 26).

4. Appended as Exhibit B hereto is a true and correct copy of the written testimony given by David Yassky, the Commissioner of the New York City Taxi and Limousine Commission ("TLC"), to the City Council Transportation Committee on April 27, 2011, available at www.nyc.gov/html/tlc/downloads/pdf/testimony_04_27_11.pdf (last visited on October 12, 2011).

5. Appended as Exhibit C hereto is a true and correct copy of the TLC's Affidavit of Non-Reliance to be executed by any purchaser of an existing taxicab medallion, available at www.nyc.gov/html/tlc/downloads/pdf/nonreliance_aff.pdf (last visited on October 12, 2011).

6. Appended as Exhibit D hereto is a true and correct copy of the TLC's Official Bid Form for Corporate (Minifleet) Accessible Medallions to be completed by any bidder for a newly issued corporate accessible taxicab medallion, available at www.nyc.gov/html/tlc/medallion/downloads/pdf/bid_form_corp_mini_accessible.pdf (last visited on October 12, 2011).

7. Appended as Exhibit E hereto is a true and correct copy of an email chain between Ashwini Chhabra, Gene Freidman and Ethan Gerber, starting on August 26, 2011, with the subject line "Accessible cabs tomorrow."

8. Appended as Exhibit F hereto is a true and correct copy of an email chain between Ashwini Chhabra, Conan Freud, Brian Switzer, Adrian Gonzalez, Michael DelBene,


Mamed Dzhaniev, Ralphie Diaz, Gene Freidman and Ethan Gerber, starting on August 27, 2011, with the subject line "Hurricane+Zone_Developments_with Bus Pickup Sites and ECs.xlsx."

9. Appended as Exhibit G hereto is a true and correct copy of an email chain between Ashwini Chhabra, Conan Freud, Brian Switzer, Mamed Dzhaniev, Gene Freidman and Ethan Gerber, starting on August 27, 2011, with the subject line "DIM msgs."

10. Appended as Exhibit H hereto is a true and correct copy of the written testimony given by TLC Commissioner David Yassky on behalf of the TLC to the Assembly Standing Committee on Cities, Assembly Standing Committee on Corporations, Authorities & Commissions, Assembly Standing Committee on Transportation, and Assembly Task Force on People with Disabilities on July 14, 2011, available at www.nyc.gov/html/tlc/downloads/pdf/testimony_07_14_10.pdf (last visited on October 12, 2011).

I declare, under penalty of perjury, that the foregoing is true and correct. Executed this twelfth day of October, 2011.

New York, New York
October 12, 2011


NATALIE N. KUEHLER

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- x

METROPOLITAN TRANSPORTATION BOARD OF
TRADE; MIDTOWN OPERATING CORP.; SWEET
IRENE TRANSPORTATION CO. INC., OSSMAN ALI;
and KEVIN HEALY,

**DECLARATION OF
ANDREW SALKIN**

Plaintiffs, 08 Civ. 7837 (PAC)

-against-

CITY OF NEW YORK; MICHAEL R. BLOOMBERG, in
his official capacity as Mayor of the City of New York;
THE NEW YORK CITY TAXI & LIMOUSINE
COMMISSION ("TLC"); MATTHEW W. DAUS, in his
official capacity as Commissioner, Chair, and chief
Executive Officer of the TLC; PETER SCHENKMAN, in
his official capacity as Assistant Commissioner of the
TLC for Safety & Emissions; and ANDREW SALKIN, in
his official capacity as first Deputy Commissioner of the
TLC,

Defendants.

----- x

ANDREW SALKIN, pursuant to 28 U.S.C. § 1746, declares as follows:

1. I am the First Deputy Commissioner of the Taxi and Limousine Commission ("TLC"), and have served in this capacity since June 2004. Before being appointed to this position, I served as Lower Manhattan Borough Commissioner at New York City (the "City") Department of Transportation. In that position, starting in the summer of 2003, I was assigned to work with the TLC on operational and policy matters.

2. My general responsibilities as First Deputy Commissioner include overseeing operations and programs of the licensing, enforcement, adjudications and administrative divisions, as well as working closely with all TLC staff to develop policy.

3. I am aware that plaintiffs' preliminary injunction motion challenges TLC Rule § 3-03(c)(10) that requires that taxicab replacement vehicles beginning October 1, 2008 achieve 25 City¹ miles per gallon ("2008 TLC Rule" or "TLC Rule"). I am also aware that plaintiffs' Complaint challenges not only the 2008 TLC Rule but also TLC Rule § 3-03(c)(11) that requires that taxicab replacement vehicles beginning October 1, 2009 achieve 30 City miles per gallon ("2009 TLC Rule" and, together with 2008 TLC Rule, the "TLC Rules"). I submit this declaration in opposition to plaintiffs' requests based upon my personal knowledge, the books and records of the TLC, and conversations with current and former staff of the TLC and other City agencies.

A. The TLC

4. The TLC was created in 1971 and, among other things, oversees the City's medallion (yellow) taxicabs industry, for-hire vehicles (including community-based liveries and black cars), commuter vans, paratransit vehicles (also known as the ambulettes), and luxury limousines. With respect to the approximately 13,000 yellow taxicabs, Section 2303 of the New York City Charter (the "Charter") authorizes the TLC to regulate, among other things: passenger fare rates; service conditions; license issuance, revocation and suspension; and standards concerning safety, design, comfort convenience noise control, air pollution control, and efficient operation of vehicles.

¹ The Rule requires that vehicles meet Environmental Protection Agency ("EPA") City miles per gallon, as opposed to highway miles per gallon that typically obtain higher mile per gallon ratings. The City mileage rating of a vehicle is determined pursuant to chapter 329 of title 49 of the United States Code and regulations promulgated pursuant thereto. Ratings for 2009 model vehicles are available at <http://www.fueleconomy.gov/feg/comp2008f.jsp?hiddenField=hybridyear=2009>.

5. However, the TLC does more than merely regulate yellow cabs. Section 2300 of Charter charges the TLC with the mission of transforming the yellow taxicabs into an essential part of the City's public transportation system:

It shall be the further purpose of the commission, consonant with the promotion and protection of the public comfort and convenience to adopt and establish an overall public transportation policy governing taxi, coach, limousine, wheelchair accessible van services and commuter van services as it relates to the overall public transportation network of the city.

Moreover, Section 2303 of the Charter further charges the TLC with the development and effectuation of a broad public policy:

as it relates to forms of public transportation in the City, including innovation and experimentation in relation to type and design of equipment, modes of service and manner of operation [and] assistance to the business and industry of public transportation ... in aid of the continuation, development and improvement of service and safety and convenience of the public.

Finally, the New York City Council, in Section 19-501 of the Administrative Code, also recognizes the TLC's public transportation role, stating that:

It is hereby declared and found that the business of transporting passengers for hire by motor vehicle in the city of New York is affected with a public interest, is a vital and integral part of the transportation system of the city, and must therefore be supervised, regulated and controlled by the city.

6. The City has the power to limit the number of taxicab medallions, adding more only through competitive seal-bid auctions that are not all that different from municipal bidding procedures. Medallion auctions are rare, with only three rounds of auctions being approved since the creation of the medallion system in 1937.

7. TLC exercises its public transportation mandate through its power to exclusively license medallion owners, yellowcabs, and drivers, and comprehensively regulate them, in effect allowing TLC to control all facets of taxicab use. These requirements include:

- standards for drivers: including education and training; maximum hours driver can operate vehicle; and restricting the use of cellular phones while operating the taxicab;
- operation of the vehicle: including amount driver earns for each ride; offering service to anyone; taking passengers to all desired destination within the City; authorizing the number of passengers that can ride in the taxicab; requiring the use of E-Z Pass; and minimum hours taxi can must operate;
- maintaining vehicles safety and service standards: including passing three annual inspections conducted by the TLC; maintaining minimum levels of insurance; setting vehicle replacement schedules; setting new vehicle requirements; limiting operation of vehicle to licensed TLC drivers; establishing common vehicle markings; requiring meters that calculated TLC approved fare; requiring trouble lights; requiring roof lights; requiring air conditioning; and offering minimum payment options, including accepting credit cards; and
- oversight of medallion holders: including the review and authorization of all medallion license sales; provision of all taxicab trip data listing the driver, where and when all taxi trips start and end, and all applicable fares; and controlling income and earnings of the medallion owners.

8. These requirements show how heavily integrated with the TLC the New York City taxicab industry is. In sum, the auctioning, licensing and regulatory process described above has proven the most effective way to provide taxicab service as part of the City's public transportation network.

B. Yellow Taxicabs As An Integral Part of the City's Public Transportation System

9. The importance of the yellow taxi fleet to the City's public transportation network results from the tremendous need that New Yorkers have for taxis, given that New Yorkers do not own cars at the same rate as the rest of the nation. Nationally, 90 percent of households own at least one car, while the car ownership rate in each of the five boroughs is as follows: 22.5 percent in Manhattan; 38.4 percent in the Bronx; 43 percent in Brooklyn, 62.3 percent in Queens, and 81.6 percent in Staten Island. *See* U.S. Bureau of the Census, 2000 Decennial Census, available at: http://factfinder.census.gov/servlet/DTTable?_bm=y&-context=dt&-ds_name=DEC_2000_SF3_U&-CONTEXT=dt&-mt_name=DEC_2000_SF3_U_H044&-tree_id=403&-redoLog=true&-all_geo_types=N&-_caller=geoselect&-geo_id=01000US&-geo_id=05000US36005&-geo_id=05000US36047&-geo_id=05000US36061&-geo_id=05000US36081&-geo_id=05000US36085&-search_results=01000US&-format=&-_lang=en. More than 65 percent of individuals responding to a survey entitled "Taxi07: Roads Forward, Design Trust for Public Space and TLC" survey represented that taxis help residents live in the City without a car. *See* Taxi07: Roads Forward, Design Trust for Public Space and TLC, at 80-81 ("Taxi07"). The relevant pages of Taxi07 are attached as Defendants' Exhibit ("Exh.") 17.² Moreover, in a statistical model of 118 cities and counties, one expert found the number of zero-vehicle households to be a significant determining

² Exhibits are attached to the Declaration of Ramin Pejan.

factor in the demand for taxicabs. See Bruce Schaller, *A Regression model of the Number of Taxicabs in US Cities*, Journal of Public Transportation, Vol. 8, No. 5, 2005 at 76 (“Schaller Report”). Relevant pages of the Schaller Report are attached as Defendants’ Exh. 18.

10. Moreover, evidence demonstrates that New Yorkers use taxicabs to fill a public transportation niche that subways and buses cannot provide. A survey taken by the Taxi07 Design Trust concluded that “taxi use is situational, a conscious passenger decision based on circumstances that make other forms of mass transit less appealing.” See Taxi07 at 80. It listed the most common reasons for using taxis as including being in a hurry, needing to transport luggage or large items, it is late at night, bad weather, and that it is sometimes easier than other transit options. See *id.* In these situations, it is clear that taxis serve an independent public transportation function.

11. Daily ridership of yellow taxicabs confirms the conclusion of the Taxi07 study that found that taxis are a form of public transportation in the City. As of 2007, there are approximately 470,000 taxi trips per day in the City. See Taxi07, at 78. With an average of 1.4 passengers per trip, this represents approximately 240 million person-trips by taxi each year. *Id.* This ranks the City’s taxi fleet as the seventh-largest transit system in the United States, when compared to usage figures compiled by the American Public Transportation Association (“APTA”). See Taxi07, at 78.

C. Hybrid Taxicabs in the City’s Taxi Fleet

12. The Crown Victoria Long Wheel Base has been the dominant new taxicab starting 2001. However, pursuant to the City Council’s mandate in Local Law 72 requiring the TLC to approve one or more hybrid electric vehicle models for use as a taxicab and TLC’s aforementioned rulemaking authority, TLC approved in October 2005 the use of hybrid vehicles as taxicabs, and 18 hybrid taxicabs were put on the road by November 2005. See 2005 Final

Rule and Statement of Basis and Purpose, attached as Defendants' Exh. 19. A copy of Local Law 72 is attached as Defendants' Exh. 20. In promulgating this rule, the TLC recognized additional benefits of hybrid vehicles beyond gas cost savings for drivers, passengers, and owners – such as lowering fuel consumption, improving air quality, and benefiting public health. *See id.*

13. By the end of November 2007, there were more than 700 hybrid taxis in operation on the City's streets, and nearly double that amount by mid-August 2008, exceeding TLC's target to have 1000 hybrid taxicabs operating by October 1, 2008. Hybrid vehicles that are being used as taxicabs include the Ford Escape, the Saturn Vue, Lexus RX 400H (SUV), Mercury Mariner (SUV), Nissan Altima, Toyota Camry, Toyota Highlander, and Toyota Prius. The first group of 18 hybrid vehicles put on the road in November 2005 will have completed a full 36 month fleet cycle in November 2008, and many will have traveled near 300,000 miles. In total, the hybrid taxicabs have logged more than 70 million miles of service. All this with minimal maintenance problems and safety concerns.

D. The TLC Rule

14. As part of its continuing effort to fulfill its public transportation mandate under the City Charter and Administrative Code, including to reduce costs to drivers and fares to passengers, conserve fuel and increase the economic health of the taxicab industry, the TLC promulgated the TLC Rules for taxicabs in December 2007.

15. The TLC Rules require that new taxicabs, except those that are wheelchair accessible, put in service beginning on October 1, 2008, achieve at least 25 City miles per gallon, and put in service beginning October 1, 2009, achieve at least 30 City miles per gallon, respectively. *See* 35 RCNY § 3-03(c)(10), (11).

16. The TLC Rules' stated basis and purpose is to "increase the economic health of the industry by decreasing driver costs and increasing medallion value, and to further benefit the public by reducing upward pressure on taxicab fares." Defendants' Exh. 25. At the time of the TLC Rule's promulgation, the TLC estimated that "[w]hen fully phased in, the rule is expected to result in savings of more than \$4,500 in gasoline costs per vehicle per year. Therefore, the Rule is expected to result in industry-wide gasoline savings of approximately \$60,000,000 per year." *Id.*

17. It is important to note that the TLC Rules are very narrow in scope and applies only to the taxicab industry, which purchases approximately 3,450 new taxis per year. This is a negligible amount of vehicles compared to the 7,667,066 new retail passenger car sales, not including SUVs and minivans, nationwide in 2005. *See U.S. DOT, Bureau of Transportation Statistics*, available at http://www.bts.gov/publications/national_transportation_statistics/html/table_01_16.html.

E. Public Review of the TLC Rule

18. Promulgated in conformance with the City Administrative Procedure Act ("CAPA"), the TLC Rules were reviewed extensively through a public review process.

19. The TLC published the proposed TLC Rules on October 22, 2007 in the City Record. It also solicited comments and gave notification of a public hearing on the proposed rule. A copy of the October 22, 2007 City Record is attached as Defendants' Exh. 21.

20. Only two written comments were submitted in response to proposed TLC Rule on November 20 and 21, 2007, none of which were from or on behalf of plaintiffs. *See* Comments submitted by David L. Beier on behalf of the Committee for Taxi Safety, dated November 20, 2008 and Ethan B. Gerber, Esq., dated November 21, 2008, attached as Defendants' Exh. 22. These comments remarked, among other things, that the proposed rule was

premature because the reliability and availability of qualified vehicles is uncertain and that except for the Ford Escape, qualified vehicles have not been road tested as taxicabs. *See id.*

21. The TLC held a public hearing on December 11, 2007. Excerpts of the transcript of the December 11, 2007 TLC Public Hearing are attached as Defendants' Exh. 23. The hearing allowed for public comments and there were both proponents and opponents to the rule. The taxi fleet representatives were generally opposed to the rule and commented, among other things, that it was too early to determine how hybrid vehicles would hold up because they had not completed a full three-year taxi cycle. In addition, some representatives questioned the increased costs in maintaining hybrid vehicles, whether there would be a sufficient supply of hybrids to meet the demand necessary to comply with the TLC Rule, and the safety of hybrid vehicles in relation to Crown Victorias, including the lower rollover rating for the Escape hybrids.

22. There were also several proponents of the rule, including City Council members and several environmental groups, including the National Resources Defense Council, the Environmental Defense Fund, and the Sierra Club. The environmental groups commented that the TLC Rule would provide tremendous cost benefits to taxicab drivers and owners, help reduce dependence on foreign oil, significantly improve air quality, and reduce greenhouse gas emissions.

23. The TLC responded to these comments at the hearing. It explained, among other things, that the first hybrid taxicabs had been on the road since November 2005, some of which had traveled in excess of 200,000 miles, and that these vehicles had held up well. It also responded that hybrid vehicles were safe with six airbags, and that drivers have been reporting that they are more comfortable with almost all of the hybrids. *See* Exh. 23, at 79. In

addition, it stressed that Crown Victorias have their own safety and durability issues. *Id.*, at 80. The TLC scheduled a follow up meeting in May 2008 to get an update and review availability and any new safety issues to ensure compliance by October 1, 2008. *Id.*, at 89.

24. At the conclusion of the December 11 hearing, the TLC voted on and passed the TLC Rule.

25. As required by CAPA, on December 14, 2007, the corporation counsel reviewed the TLC Rule and determined that it was within the authority delegated by law to the TLC. *See* December 14, 2007 letter from Steven Goulden, Acting Corporation Counsel, to Commissioner Matthew Daus, attached as Defendants' Exh. 24.

26. The final TLC Rule was published on December 18, 2007 in the City Record. A copy of the final rule published in the City Record is attached as Defendants' Exh. 25.

27. The TLC Rule and statement of basis and purpose was transmitted to the City Council on December 21, 2007. A copy of the December 21, 2007 Letter to the City Council is attached as Defendants' Exh. 26.

F. The City's Efforts to Secure Adequate Availability of Hybrid Vehicles

28. The TLC and the Mayor's Office of Operations have had meetings and calls with several hybrid manufacturers and suppliers in an effort to secure an adequate supply of vehicles starting in October 2008 to meet the requirements of the TLC Rule. TLC was able to secure commitments from Ford, Nissan, and General Motors ("GM"), and a number of car dealers. *See* Letters from Best Ford, Nissan, and GM and e-mail from Koeppel Nissan, attached as Defendants' Exh. 10. The City announced the manufacturer and dealer commitments through a press release on July 16, 2008. The July 16, 2008 press release is attached as Defendants' Exh. 27.

29. Specifically, Ford has indicated that it could supply 600 Escapes per year, Nissan has indicated that it can manufacture up to 200 Altima hybrid vehicles per month, and GM have committed to supply approximately 50 Malibus per month. These vehicles are in addition to any vehicles that will be available for the public at retail locations. Car dealers and manufacturers have committed to working with vehicle owners and manufacturers to order and have vehicles available in a timely manner to meet the requirements of the TLC Rule. This confirms that there will be an adequate supply of vehicles for medallion owners to comply with the Rule.

G. Compliance with the TLC Rule

30. The TLC Rule provides taxi owners with a wide range of vehicle choice that includes hybrid and non-hybrid vehicles. The following vehicles would qualify for use under the 25 miles per gallon requirement: 2009 Chevrolet Malibu Hybrid, 2009 Volkswagen Jetta clean Diesel Sedan, 2008-09 Lexus RX400h, 2008-09 Toyota Camry Hybrid, 2008-09 Toyota Prius, 2008-09 Toyota Highlander Hybrid, 2008-09 Saturn Vue Hybrid, 2008-09 Nissan Altima Hybrid, 2008-09 Ford Escape Hybrid FWD, and 2008-09 Mercury Mariner Hybrid, 2008-2009 Mazda Tribute Hybrid, and 2008-2009 Honda Civic Hybrid. Currently, the Nissan Altima Hybrid, Ford Escape FW Hybrid, Mercury Mariner Hybrid, Mazda Tribute Hybrid, Honda Civic Hybrid, Toyota Prius, and Toyota Camry Hybrid will meet the 30 MPG standard.

31. It is expected that approximately 328 taxicabs will retire between October 1 and December 31, 2008 (80 in October, 123 in November, and 125 in December). Of that, approximately 78 are from plaintiffs' fleets, and 42 from Midtown Operating Corp. As a result, many medallion owners have started placing orders to comply with the TLC Rule. As of September 25, 2008, there have been 1418 hybrid orders placed with dealers.

32. Moreover, medallion owners would have had to buy hybrid or accessible taxicabs in order to meet the TLC's specifications whether or not TLC promulgated the TLC Rule. This is because the only vehicle that currently meets the TLC specifications set out in 35 RCNY section 3-03 without qualifying for TLC's exceptions for hybrids and accessible vehicles is the Stretch Crown Victoria, a vehicle which I understand that Ford will manufacture only 100 of in 2009 and then potentially discontinue its production. *See* 35 RCNY § 3-03. Therefore, because the Stretch Crown Victoria is being discontinued for the NYC market, the TLC Rule is in fact providing greater vehicle purchase options to medallion owners.

H. May 8, 2008 TLC Hearing

33. As discussed above, the TLC held a hearing on May 8, 2008 for the purpose of discussing availability and new safety issues to ensure compliance with the TLC Rule that was passed at the December 11, 2007 hearing. Excerpts of the May 8, 2008 hearing transcript is attached as Defendants' Exh. 28. Although this hearing was supposed to focus on availability and new safety issues, some medallion owners used it as an opportunity to also discuss safety, durability, and costs issues that they had raised at the December 2007 hearing. The TLC concluded the meeting and gave no indication that they would have any additional meetings on these issues before the October 1, 2008 compliance date for the TLC Rule.

I. Correspondence From Plaintiffs To Evade TLC Rule Compliance

34. In response to a July 16, 2008 directive to all medallion owners that the TLC issued to assess status of vehicle replacements leading up to the compliance date for the 2008 TLC Rule, plaintiffs uniformly submitted identical letters, dated August 15, 2008 identifying six other options to comply with the TLC Rule. Of the six options, the TLC replied on August 29, 2008 that only two are viable in addition to replacement with a 25 MPG vehicle – replacing the vehicle before October 1, 2008 with a pre-TLC Rule compliant vehicle or replacing

the retiring vehicle before or at its retirement date with an accessible vehicle that is exempt from the TLC Rules. A copy of plaintiffs' August 15, 2008 letter is attached as Defendants' Exh. 29. A copy of TLC's August 29, 2008 reply is attached as Defendants' Exh. 30. Given that TLC notified plaintiffs that they had alternatives to immediate compliance with the TLC Rules, plaintiffs' claim in their motion papers of irreparable harm based on having no other alternatives but to comply is inaccurate.

35. As a final effort to curtail the TLC Rules before filing the instant action in federal court, plaintiffs threatened with impleader tort suits those manufacturers that provided the City with written commitments to make certain quantities of qualifying vehicles available on a monthly basis. Plaintiffs sent the TLC Commissioners copies of these letters. Copies of these letters are attached as Defendants' Exh. 31. To date, none of the manufacturers have withdrawn their commitments.

J. Taxi of Tomorrow

36. Separate and apart from the TLC Rules, the Taxi of Tomorrow project is a unique opportunity to explore upgrades to the existing New York City taxi fleet by learning about possibilities for a more appropriate vehicle that reflects the needs of its diverse stakeholders - passengers, drivers, owners and NYC residents. Gasoline cost savings is not the purpose of the project. A Request for Information ("RFI") was distributed to the automobile industry in February 2008 and the time to respond has now ended. The next step for the TLC to consider the information it has received through the RFI process. Based on RFI responses, one course of action being considered is to pursue a Request for Proposals ("RFP") for the production, delivery and support of a vehicle built and/or modified specifically for the NYC taxi market. The RFP will set forth specifications for the taxi of tomorrow, but will not dictate how

such a taxi will be built. Given the likely time of an RFP of eight months to a year, even if an RFP is released today authorizing a vehicle manufacturer to proceed is not expected until fall of 2009. In addition, based on the RFI responses, manufacturers indicated that it will take approximately three years to design, develop and work into a manufacturing program the “Taxi of Tomorrow” from the notice to proceed.

37. I understand that plaintiffs allege that manufacturers already have vehicles in the late stage of development that would meet the RFP requirements, and two – the Ford Transit Connect and the Standard Taxi—are scheduled to be available for purchase next summer. The Ford Transit Connect and the Standard Taxi are not the taxi of tomorrow as no proposals have been submitted indicating what vehicles may become the taxi of tomorrow. Moreover, having yet to see “final” vehicle design or proposal, there is no way to say with any certainty that these vehicles will meet the requirements of the RFP or be available for production as early as next summer in North America.

Conclusion

38. As demonstrated above, plaintiffs’ allegations are without merit. Accordingly, their request for preliminary relief should be denied.



ANDREW SALKIN

Testimony of David Yassky
NYC Taxi & Limousine Commissioner/Chair
INTRO 521, sponsored by CM Vacca and Rose by the request of the Mayor, IN
RELATION TO MANDATORY PENALTIES FOR TAXICAB AND OTHER DRIVERS

City Council Transportation Committee
April 27, 2011

Good Afternoon, Chairman Vacca and the members of the City Council Committee on Transportation. I am David Yassky, Chairman of the Taxi and Limousine Commission. Thank you for the opportunity to speak to you today regarding Intro 521, which would increase penalties for yellow-cab service refusals, yellow-cab overcharges, and For-Hire Vehicle street hails. The Taxi and Limousine Commission strongly supports these changes, and is grateful to Council Members Vacca and Rose for introducing and sponsoring the legislation.

As you and all New Yorkers know, the City's yellow taxis are an internationally-recognized symbol. Taxis are a key part of our City's transportation network, and provide over half a million trips for visitors, residents, and commuters each day. New Yorkers depend on cabs to pick up groceries, make it to an afternoon meeting, or enjoy a night out on the town. Our City's taxi industry makes this service available twenty-four hours a day, seven days a week, year-round in snow, sleet, heat and rain on New York City streets.

However, yellow-taxi street hail service is mostly unavailable beyond the East River; residents in Brooklyn, Queens, the Bronx, Staten Island, and even parts of upper Manhattan do not enjoy this convenience, and also face difficulties hailing a ride to from Manhattan to the outer-boroughs. This is not acceptable. TLC Rules and the City's Administrative Code state that any taxi passenger must be taken anywhere in the five boroughs when they want to. We know service refusals – where drivers refuse to pick up a passenger for who they are, where they are going, or any other host of reasons – are an increasing problem in the City's yellow-cab industry, with more than 500 complaints just in March alone. The TLC has made enforcing this regulation a priority, and given recent events and the Mayor's support for increased enforcement and

penalties, we are thankful that this Committee and the Council as a whole has acted speedily to consider this legislation.

In response, the agency has increased on-street enforcement resources focused on this issue, and we have partnered with Baruch College for more effective enforcement. Students, who are less recognizable to drivers than our enforcement officers, hail a cab and ask to go somewhere outside Manhattan. When the student is refused, TLC officers issue a summons to the driver. The increased fines proposed by this legislation will make these added enforcement efforts more effective, and we believe that the increased penalties will make drivers think twice before refusing a passenger service.

We also want to ensure that passengers pay the correct amount for their trip and enter a vehicle licensed for accepting street hails. That is why we are supporting increased penalties for any overcharge committed by a yellow taxi driver and any illegal street hail committed by a For-Hire Vehicle driver. Intro 521 would increase penalties for any yellow taxi driver who attempts to ask for a tip, request payment beyond the amount shown on the meter, or purposely returns the incorrect amount of change to a passenger who has paid the fare in cash; and it increases the penalties for any For-Hire Vehicle driver that picks up a passenger off the street without first pre-arranging the trip. The increased penalties for illegal street hails is particularly important for us because passengers who enter vehicles not licensed for accepting street hails put themselves at risk. The vehicle will most likely not be properly insured and may be operated by an unlicensed driver. We believe that increasing the penalties for these offenses will help deter yellow taxi drivers from overcharging unsuspecting passengers, and For-Hire Vehicle drivers from illegally picking up off the street.

A key part of the yellow taxi's success is the service that passengers receive. It doesn't matter if you are seeing the sights on your vacation, visiting family in Queens, running to your office uptown, or returning home to Brooklyn, you should be able to take a cab, and know you are paying the right price and getting into a licensed vehicle. The

ability to take a taxi anywhere is one of the top reasons that New Yorkers have the nation's lowest car-ownership rates and some of the country's smallest carbon footprints. We support this legislation, so that all visitors and residents can continue to get from point A to point B regardless of where those points are, and so everyone has access to the world-class service offered by our licensed industries.

This concludes my testimony in support of Intro 521. I would like to thank you for the opportunity to testify today about a key priority for the TLC and our City. At this time, I would be happy to answer any questions you may have.

MEDALLION NUMBER(S)_____[illegible]

(the “Purchaser”) which is purchasing or otherwise receiving an interest in the above-referenced taxicab medallion(s) (individually, and collectively, if more than one, the “Medallion”) deposes and says under penalty of perjury:

1. The Purchaser has been advised by the New York City Taxi & Limousine Commission (the “TLC”) that the TLC makes no representation as to the existence, validity or payment of any liens or encumbrances which might be outstanding against the Medallion.
2. The Purchaser acknowledges that to the extent there is any lien, claim or open issue regarding the Medallion, the seller and Purchaser remain responsible and liable to perform their obligations pursuant to section 19-512 of the Administrative Code of the City of New York (“Section 19-512”).
3. The Purchaser also acknowledges and understands that Purchaser’s interest in the Medallion is subject to any existing security interests and the provisions of Section 19-512 and that the Purchaser has made appropriate title searches and has discovered no liens or encumbrances which cannot be satisfied upon purchase.
4. The Purchaser has not relied on any statement or representation of the TLC in connection with the purchase of the Medallion, including, but not limited to, regarding the value of taxicab medallions and has not relied on the actions or determinations of the TLC in respect of the Medallion.
5. The Purchase acknowledges and understands that the use and transferability of the Medallion and the operation of a taxicab pursuant to the license represented by the Medallion are subject to and conditioned upon compliance with

6. The Purchaser agrees to hold the TLC harmless from any claims arising out of the ownership of, or operation of, the Medallion, including, but not limited to, the costs and expenses of litigation.

Sworn to before me on this ____ day of _____, 2____

Notary Public

TLC 4/1/11



Matthew W. Daus, Commissioner/Chair

OFFICIAL BID FORM FOR CORPORATE (MINIFLEET) ACCESSIBLE MEDALLIONS

I, _____, whose phone number is _____ and
 whose address is _____,
 bid the sum of :

\$ _____ per lot
**NO BID AMOUNTS ENDING IN
 FRACTIONAL CENTS PER MEDALLION
 SHALL BE ACCEPTED**

For a lot of (2) **CORPORATE (MINIFLEET) ACCESSIBLE** medallions

CW

DEPOSIT REQUIRED: \$4,000.00

I ACKNOWLEDGE THAT I AM FAMILIAR WITH THE RULES OF THE NYC TAXI & LIMOUSINE COMMISSION GOVERNING THE OWNERSHIP OF TAXI MEDALLIONS AND AGREE TO COMPLY WITH SAME AT ALL TIMES, INCLUDING WITH RESPECT TO THE REQUIREMENTS REGARDING THE COMPLETION OF THIS TRANSACTION IF I AM A SUCCESSFUL BIDDER. I FURTHER ACKNOWLEDGE THAT I HAVE READ THE RULES RELATING TO CRITERIA FOR TAXICAB OWNERSHIP AND AM QUALIFIED TO OWN A TAXICAB.

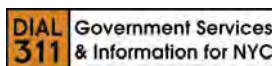
IF I AM A WINNING BIDDER, I UNDERSTAND THAT THE FAILURE TO COMPLETE THE CLOSING OF THIS TRANSACTION WITHIN THE TIME PERIOD SPECIFIED BY TLC RULES WILL RESULT IN THE FORFEITURE OF THE DEPOSITS MADE BY ME HERewith IN RESPECT OF SUCH LOT FOR WHICH I HAVE FAILED TO COMPLETE THE CLOSING.

I CERTIFY THAT I HAVE NOT RELIED ON ANY STATEMENTS OR REPRESENTATIONS FROM THE CITY OF NEW YORK IN DETERMINING THE AMOUNT OF MY BID. I FURTHER CERTIFY THAT I HAVE NOT COLLUDED, CONSULTED, COMMUNICATED, OR AGREED IN ANY WAY WITH ANY OTHER BIDDER OR PROSPECTIVE BIDDER FOR THE PURPOSE OF RESTRICTING COMPETITION OR INDUCING ANY OTHER PROSPECTIVE BIDDER TO SUBMIT OR NOT SUBMIT A BID FOR PURPOSE OF RESTRICTING COMPETITION. I FURTHER CERTIFY THAT I HAVE NOT DISCLOSED ANY BID PRICE EITHER DIRECTLY OR INDIRECTLY TO ANY OTHER BIDDER FOR THE PURPOSE OF RESTRICTING COMPETITION OR INDUCING ANY OTHER PROSPECTIVE BIDDER TO SUBMIT OR NOT TO SUBMIT A BID FOR THE PURPOSE OF RESTRICTING COMPETITION. I FURTHER CERTIFY THAT I AM NOT ACTING AS A TAXICAB BROKER FOR ANY OTHER BIDDER, AND AM NOT THE OWNER, SHAREHOLDER, PARTNER, MEMBER, OR EMPLOYEE OF ANY PERSON OR ENTITY ACTING AS A TAXICAB BROKER FOR ANY OTHER BIDDER.

I UNDERSTAND AND AGREE THAT THE CITY OF NEW YORK HAS NOT MADE ANY REPRESENTATIONS OR WARRANTIES AS TO THE PRESENT OR FUTURE VALUE OF A TAXICAB MEDALLION, THE OPERATION OF A TAXICAB AS PERMITTED THEREBY, OR AS TO THE PRESENT OR FUTURE APPLICATION OR PROVISIONS OF THE RULES OF THE NYC TAXI & LIMOUSINE COMMISSION OR APPLICABLE LAW, OTHER THAN A WARRANTY OF CLEAR TITLE TO SUCH MEDALLION TO SUCCESSFUL, QUALIFYING BIDDERS THEREFOR, AND I ACKNOWLEDGE THAT NO WARRANTIES ARE MADE, EXPRESS OR IMPLIED, BY THE CITY OF NEW YORK, AS TO ANY MATTER OTHER THAN THE WARRANTY OF CLEAR TITLE. I FURTHER ACKNOWLEDGE THAT I UNDERSTAND THAT THE USE AND TRANSFERABILITY OF ANY TAXICAB MEDALLION AND THE OPERATION OF A TAXICAB PURSUANT TO THE LICENSE REPRESENTED BY THE MEDALLION ARE SUBJECT TO AND CONDITIONED UPON COMPLIANCE WITH THE REQUIREMENTS OF THE RULES OF THE NYC TAXI & LIMOUSINE COMMISSION AND APPLICABLE LAW, AS MAY BE AMENDED FROM TIME TO TIME.

Hack license number(s) if any		
Print name(s) of bidders	Signature or mark of bidders	
Print name of preparer	Name of broker	Broker license number

*PLEASE SUBMIT LIST OF OTHER MEDALLIONS CURRENTLY OWNED & ALL TAXICAB LICENSES HELD.


www.nyc.gov/taxi

Kuehler, Natalie (USANYS)

From: Ethan Gerber [mailto:ethan.gerber@usnys.com]
Sent: Thursday, September 01, 2011 3:24 PM
To: Fidel F. Del Valle
Subject: FW: Accessible cabs tomorrow

-----Original Message-----

From: Chhabra, Ashwini [mailto:ashwini.chhabra@nycha.gov]
Sent: 4:53 AM
To: [mailto:ashwini.chhabra@nycha.gov]; [mailto:ethan.gerber@usnys.com]; [mailto:ethan.gerber@usnys.com]
Subject: Re: Accessible cabs tomorrow

Gotcha! Getting list of NYCHA pickup locations now and will send as soon as I have and/or contact info for persons who can provide. Stay tuned. And thanks.

From: [mailto:ashwini.chhabra@nycha.gov]
Sent: Saturday, August 27, 2011 04:44 AM
To: Chhabra, Ashwini; [mailto:ethan.gerber@usnys.com]; [mailto:ethan.gerber@usnys.com]
Subject: Re: Accessible cabs tomorrow

Ashwini maybe u did not understand, let us know who to pick up and we will pick them up!
Sent via BlackBerry from T-Mobile

-----Original Message-----

From: "Chhabra, Ashwini" <ashwini.chhabra@nycha.gov>
Date: Sat, 27 Aug 2011 04:44 AM
To: <ethan.gerber@usnys.com>; <ethan.gerber@usnys.com>
Subject: Re: Accessible cabs tomorrow

----- Original Message -----

From: Chhabra, Ashwini
Sent: 27, 2011
To: <ethan.gerber@usnys.com>; <ethan.gerber@usnys.com>
Subject: Re: Accessible cabs tomorrow

As of tonight. Nycha was still hoping to get accessible taxis to evacuation locations. Is this at all possible? We have a list of pickup locations.

From: [mailto:ashwini.chhabra@nycha.gov]
Sent: 27, 2011 09:30
To: Chhabra, Ashwini
Subject: Re: Accessible cabs tomorrow

I will try to get you that information.

Sent from my Verizon Wireless BlackBerry

-----Original Message-----

From: "Chhabra, Ashwini" < > .gov>
Date: :35
To: < .com>
Cc: < .com>
Subject: Re: Accessible cabs tomorrow

Understood. Can you give a sense of the number of accessible vehicles you have available, subject to driver availability/willingness of course?

----- Original Message -----

From: Ethan Gerber [mailto: > .com]
Sent: Friday, August 26, 2011 09:21 PM
To: C
Cc: < .com> < .com>
Subje rrow

Money is not the issue. We are concerned New Yorkers. Logistics is the problem. Vehicles are available. Taxi Drivers are independent contractors not under our control.

Ethan B. Gerber
Gerber & Gerber PLLC

O PM, "Chhabra, Ashwini"
< > .gov> wrote:

> I'm told the need is acute enough that they will pay whatever is needed.
> What is the total potential size of accessible fleet you could possibly
> marshall during that time (again, this is Sat 7am-3pm, well before the storm
> is scheduled to arrive)? Please advise as soon as you can as they need to
> make plans for a vulnerable population. Thx.

>
>

> ----- Original Message -----

> From: Chhabra, Ashwini
> Sent: 1 07:39
> .com' >;
> ' .com' .com>

> Subject: Accessible cabs tomorrow

>

> Ethan/Gene-

> Still awaiting specifics, but assuming money were attractive, how many
> total handicapped-accessible taxis do you think you could contribute to the
> effort from 7am to 3pm tomorrow?

Kuehler, Natalie (USANYS)

From: Ethan Gerber []
Sent: Thursday, September 01, 2011 3:22 PM
To: Fidel F. Del Valle
Subject: FW: Hurricane+Zone_Developments_with Bus Pickup Sites and ECs.xlsx

-----Original Message-----

From: Chhabra, Ashwini [mailto: gov]
Sent: Saturday, August 27, 2011 3:55 PM
To: .com; DelBene, Michael; .com
Cc: .com; Freud, Conan; Switzer, Brian; Gonzalez, Adrian; .com
Subject: Re: Hurricane+Zone_Developments_with Bus Pickup Sites and ECs.xlsx

Thank you!

----- Original Message -----

From: .com [mailto: .com]
Sent: Saturday, August 27, 2011 03:52 PM
To: Chhabra, Ashwin haniyev, Mamed < .com>
Cc: Gerber, Ethan < .com>; Freud, Conan; Switzer, Brian; Gonzalez, Adrian; Diaz, Ralphie < .com>
Subject: Re: Hurricane+Zone_Developments_with Bus Pickup Sites and ECs.xlsx

Mamed, get someone as below! If problem w/ spanish, have driver call ralph. He will translate!
Sent via BlackBerry from T-Mobile

-----Original Message-----

From: "Chhabra, Ashwini" <Ashwini.Chhabra@tlc.nyc.gov>
Date: T .com>; DelBene, Michael< .gov>;
< .com>
Cc: < .com>; Freud, Conan< .gov>; Switzer, Brian< .gov>; Gonzalez, Adrian< .gov>
Subject: Re: Hurricane+Zone_Developments_with Bus Pickup Sites and ECs.xlsx

Another request, this one requiring a spanish speaker. Hoping you can help again. May not require accessible cab, as he can get out of wheelchair, though that is preferable if it doesn't delay. Thx again Gene.

Going to hunter college 68 and lex
He is in a wheelchair but can get out to get into a car To contact him call neighbor who only speaks spanish

----- Original Message -----

From: Chhabra, Ashwini
Sent: Saturday, August 27, 2011 02:02 PM

T .com' < .com>; DelBene, Michael;
' .com' om>
C .com' < .com>; Freud, Conan; Switzer, Brian
Subject: Re: Hurricane+Zone_Developments_with Bus Pickup Sites and ECs.xlsx

Sorry. Just heard we need to cancel this last request.

----- Original Message -----

From: Chhabra, Ashwini

Sent: 01:57 PM

T .com>; DelBene, Michael;
' .com' < om>

Cc: ' .com' < .com>; Freud, Conan; Switzer, Brian
Subject: Re: Hurricane+Zone_Developments_with Bus Pickup Sites and ECs.xlsx

Gene-

Here is the more comprehensive NYCHA needs request for accessible taxis in Lower Manhattan. It's for 46 vehicles, which I know is a tall order. Whatever you can do to assist will be appreciated. Contact info for POC (point of contact) at each location is also provided. Thanks!

11 vehicles
NYCHA Baruch Houses

POC

24 vehicles
NYCHA RISS Houses

POC

6 vehicles

POC

5 vehicles
ses

POC

From: .com [mailto: .com]
Sent: :09 PM
To: Chhabra, Ashwini; DelBene, Michael; Dzhaniev, Mamed < .com>

Cc: Gerber, Ethan < > .com>; Freud, Conan; Switzer, Brian
Subject: Re: Hurricane+Zone_Developments_with Bus Pickup Sites and ECs.xlsx

Mamed this is #4!
Sent via BlackBerry from T-Mobile

-----Original Message-----

From: "Chhabra, Ashwini" < > .gov>
Date: Sat, 27 Aug 2011 12:57:44
To: < > .com>; DelBene, Michael<d > gov>;
<m > com>
Cc: < > .com>; Freud, Conan< > gov>; Switzer,
Brian< > gov>
Subject: Re: Hurricane+Zone_Developments_with Bus Pickup Sites and ECs.xlsx

We have another. Hoping you can help. Thx.

This one is in brooklyn
Person nam
Address: 2
Phone number
Going to

From: < > .com [mailto: > .com]
Sent: Saturday, August 27, 2011 12:04 PM
To: Chhabra, Ashwin < > haniyev, Mamed < > .com>
Cc: Gerber, Ethan < > .com>; Freud, Co
Subject: Re: Hurricane+Zone_Developments_with Bus Pickup Sites and ECs.xlsx

Mamed! This is #3! Please direct and supervise all!

Thx
GF
Sent via BlackBerry from T-Mobile

-----Original Message-----

From: "Chhabra, Ashwini" < > gov>
Date:
To: < > .com>; DelBene, Michael< > .gov>;
< > .com>
Cc: < > .com>; Freud, Conan< > .gov>
Subje < > Developments_with Bu < > and ECs.xlsx

We have another accessible pickup, hoping you can assist here too. Pls let us know.

Name of person:
Locat
Phone
Going to

Thx.

----- Original Message -----

From: .com [mailto: .com]
Sent: Saturday, August 27, 2011 11:45 AM
To: Chhabra, Ashwin haniyev, Mamed < .com>
Cc: Gerber, Ethan < .com>; Freud, Co
Subject: Re: Hurricane+Zone_Developments_with Bus Pickup Sites and ECs.xlsx

Mamed, please direct dispatchers immediately to send 2 accessible taxis as below directed!
Please have dispatchers follow w/ drivers and as per phone below! Have the track all
movement via these taxis via our portal on cmt!

Sent via BlackBerry from T-Mobile

-----Original Message-----

From: "Chhabra, Ashwini" <A gov>
Date: Sat, 27 Aug 2011 11:31:08
To: < elBene, Michael<d gov>
Cc: Gerber, Ethan< .com>; Freud, Con gov>
Subject: RE: Hurricane+Zone_Developments_with Bus Pickup Sites and ECs.xlsx

Thanks Gene. This is great.

I've got some preliminary details on the NYCHA accessible taxi need. T and, but
for rig air accessible taxis to th , dropping
The drivers should call when they arrive at
. Her number is . And the need is immediate. Can you pls let me know as
soon as you know those cabs are on their way? We'll reimburse the drivers for those trips
based on TPEP records. Thanks.

And please confirm that you received. Thx.

-----Original Message-----

From: .com [mailto: .com]
Sent: Sat 8/27/2011 7:40 AM
To: Chhabra, Ashwini; DelBene, Michael
Cc: Gerber, Ethan
Subject: Fw: Hurricane+Zone_Developments_with Bus Pickup Sites and ECs.xlsx

FYi

Sent via BlackBerry from T-Mobile

From: .com
Date: Sat, 27 Aug 2 000
To: Appel Davis, Jesse<j .com>
ReplyTo: t.com
Cc: Sherman, Ronald< com>; Dzhaniev, Mam .com>; Gerber,
Ethan< >; Poliner, Jason< ,
Vladimir< .com>; Ahmed, Has .com>; Kats,
Mikhail< .com>
Subject: lopments_with Bus Pickup Sites and ECs.xlsx

Please send urgent message to all my cabs about attached hurricane evacuation zone pickups!
For 1 pick up they get 1/ sat shift free, 2 pick ups entire shift free including compensation
from evacuation zone! 1 far Rockaway pick up equals free shift!

Please send message to all my 141 accessible vehicles "8V-..." That in addition they might have sperate specific accessible need pickup in evacuation zones that will be separately compensated by myself!

Thx
GF

Sent via BlackBerry from T-Mobile

From: "Chhabra, Ashwini" <[redacted]@[redacted].gov>
Date: [redacted]
To: <[redacted]@[redacted].com>
Cc: DelBene, Michael<[redacted]@[redacted].gov>
Subject: Fw: Hurricane+Zone_Developments_with Bus Pickup Sites and ECs.xlsx

Ethan/Gene-

Attached is pickup location information on the NYCHA sites we discussed. As you'll see from the below msg, payment details are still being worked out. But in the interests of time, I want to get these locations to you b/c at the very least we know there will be demand there. Will get you more info as we have it.

From: DelBene, Michael
Sent: Saturday, August 27, 2011 05:21 AM
To: Chhabra, Ashwini
Subject: FW: Hurricane+Zone_Developments_with Bus Pickup Sites and ECs.xlsx

Ashwini -

Here is a list of pick-up locations provided by NYCHA. They did not have details on cab driver payment or a central phone number. A meeting will be held here at 7:00AM with City Hall - where those details should be worked out.

Please let me know if there is anything else I can help with.

Thanks,
Mike

From: Saccacio, Steven [mailto:[redacted]@[redacted].gov]
Sent: Sat 8/27/2011 5:20 AM
To: DelBene, Michael
Subject: Hurricane+Zone_Developments_with Bus Pickup Sites and ECs.xlsx

Attached is the locations you requested

Steven Saccacio
Assistant Emergency Coordinator

Emergency Services Department
23-02 49th Ave, Long Island City, NY 11101
ofc.(718)707-5900
fax.(718)707-7740
cel.(646)879-7406
New York City Housing Authority | www.nyc.gov/nycha

NYCHA prepares for Hurricane Irene. Please volunteer to help those in need.

Kuehler, Natalie (USANYS)

From: Ethan Gerber .com]
Sent: Thursday, September 01, 2011 3:20 PM
To: Fidel F. Del Valle
Subject: FW: DIM msgs

From: Chhabra, Ashwini [mailto: .gov]
Sen
To: .com; .net; Dzhaniev, Mamed
Cc: Freud, Conan; Switzer, Brian; Gerber, E
Subject: RE: DIM msgs

Gene/Mamed-

Some more wheelchair-accessible taxis needed tonight...

Pick up the following persons at John Jay College .

-
-
-
-
-

P lowing person at .

-

Destination for all is Baruch Houses .

Working on getting phone contact info for both pick up locations, and will share with you as soon as we have.

Pls let us know if you can help. And, again, thanks.

-----Original Message-----

From: com [mailto: .com]
Sent: Sun 8/28/2011 7:
To: Chhabra, Ashwini; .net; Dzhaniev, Mamed
Cc: Freud, Conan; Swit Ethan
Subject: Re: DIM msgs

i sent 6v63 6v79 8v31
second trips

Sent via BlackBerry from T-Mobile

-----Original Message-----

From: "Chhabra, Ashwini" < gov>
Date:
To: < .com>; < .net>; < .com>
Cc: Freud, Conan< .gov>; Switze gov>; < .com>
Subject: Re: DIM msgs

Awesome!

Thx.

----- Original Message -----

From: [redacted] .com [mailto:[redacted] .com]
Sent: S
To: Chhabra, Ashwini; [redacted] .net <[redacted] net>; Dzhaniev, Mamed <[redacted] .com>
Cc: Freud, Conan; Switzer, Brian; Gerber, Ethan <[redacted] .com>
Subject: Re: DIM msgs

Mamed sent

I sent 11 more wheelchairs accessible cars:

6v11,6v24,6v60,8v63,6v79,6v72,6v70,8v65,

6v65,8v65,8v52

Sent via BlackBerry from T-Mobile

-----Original Message-----

From: "Chhabra, Ashwini" <[redacted] .gov>
Date
To: <[redacted] .com>; <[redacted] net>; <[redacted] com>
Cc: Freud, Conan<[redacted] .gov>; Switze <[redacted] .com>
Subject: Re: DIM m

Fantastic! And you're right, they can do return trips! Thank you again, and thanks to your drivers. Pls ask them to keep track of these trips. We will compensate them for these trips, since these are NYCHA residents and not in a position to pay.

----- O

From: [redacted] .com [mailto:[redacted] .com]
Sent: S
To: Chhabra, Ashwini; [redacted] net <[redacted] net>; Dzhaniev, Mamed <[redacted] .com>
Cc: Freud, Conan; Switzer, Brian; Gerber, Ethan <[redacted] .com>
Subject: Re: DIM msgs

We are sending 15 cars!

Sent via BlackBerry from T-Mobile

-----Original Message-----

From: "Chhabra, Ashwini" <[redacted] .gov>
Date:
To: <[redacted] com>; <[redacted] net>; <[redacted] .com>
Cc: F <[redacted] >; Switze <[redacted] .g
Subject: Re: DIM msgs

Gentlemen-

Any idea yet of how many taxis are on the way as of now? NYCHA needs to know if they should simultaneously be working on a Plan B.

Thanks again!

----- O

From: [redacted] com [mailto:[redacted] com]
Sent: S
To: Chhabra, Ashwini; [redacted] .net <[redacted] .net>; Dzhaniev, Mamed <[redacted] .com>
Cc: Freud, Conan; Switzer, Brian
Subject: Re: DIM msgs

Mamed, please have dispatchers contact assemblyman recchia below and book rides!
Sent via BlackBerry from T-Mobile

-----Original Message-----

From: "Chhabra, Ashwini" <[REDACTED] gov>
Date:
To: <[REDACTED] com>; <[REDACTED] gov>
Cc: Freud, Conan<[REDACTED] gov>; Switzer, Brian<[REDACTED] gov>; <[REDACTED] .com>
Subject: Re: DIM msgs

Fantastic!

Pick up location is [REDACTED] going to various spots along Surf Ave in Coney Island.

The contact drivers should call is [REDACTED]. His cell # is [REDACTED].

Thanks!

----- O

From: [REDACTED] .com [mailto:[REDACTED] com]
Sent: Sunday, August 2
To: Chhabra, Ashwini; [REDACTED] .net <[REDACTED] .net>
Cc: Freud, Conan; Switzer, Brian; Dzhaniyev, Mamed <[REDACTED] .com>
Subject: Re: DIM msgs

Give me specifics, we will try to accommodate as always!
Sent via BlackBerry from T-Mobile

-----Original Message-----

From: "Chhabra, Ashwini" <[REDACTED] gov>
Date:
To: <[REDACTED] com>; <[REDACTED] .net>
Cc: Freud, Conan<[REDACTED] gov>; Switze [REDACTED] gov>
Subject: Re: DIM msgs

Gene/Ethan-

Wondering if you can help with some repatriation efforts today? I'm awaiting the details, but generally the need is for 25 accessible cabs ferrying folks from Bensonhurst back to Coney Island. Pls let me know if that is doable. Thanks!
Ashwini

----- Original Message -----

From: Chhabra, Ashwini
Sent: [REDACTED] AM
T [REDACTED] .com' <[REDACTED] .com>; ' [REDACTED] .net'
<[REDACTED] .net>
Subject: Re: DIM msgs

Gentlemen-

The Mayor couldn't possibly thank everyone who needed to be thanked in his briefings, but rest assured you both have our sincere thanks and the gratitude of the New Yorkers who are safe due to your efforts. Hope you and your families/friends/drivers are safe and your property is unharmed. Talk more soon.

Best,
Ashwini

----- Original Message -----

From: .com [<mailto: .com>]
Sent:
To: .net < .net>; Chhabra, Ashwini
Sub

Mayor was very gracious !

-----O -
From: .net
To: Chhabra, Ashwini
To: Freidman, Evgeny A.
ReplyTo: .net
Subject: R
Sent: Aug 28, 2011 12:10 AM

Ashwani.

I just heard that the mayor thanked the drivers but forgot to mention the owner who made it all possible at his expense and through his and his staff's tireless efforts. I trust this is an oversight that will be corrected.

-----Original Message-----

From: Ashwini Chhabra
To:
To: .net
Cc: Freud, Conan
Subject: DIM msgs
Sent: Aug 27, 2011 5:09 PM

Gene/Ethan-

Here are the additional DIM msgs we're pushing out to all taxis tonight. Thx for all your help!

@5:00: Drivers should listen to radio for hurricane news on street & bridge closures, and wind & rain conditions. Drive safe!

@6:00, 7:00, 8:00, 9:00, 10:00, 11:00 and 12:00: Drivers should listen to the radio for weather and traffic updates. Avoid street & bridge closures. Be safe!

Sent from my Verizon Wireless BlackBerry

Sent via BlackBerry from T-Mobile

Testimony of Taxi and Limousine Commission

**ASSEMBLY STANDING COMMITTEE ON CITIES
ASSEMBLY STANDING COMMITTEE ON
CORPORATIONS, AUTHORITIES & COMMISSIONS
ASSEMBLY STANDING COMMITTEE ON TRANSPORTATION
ASSEMBLY TASK FORCE ON PEOPLE WITH DISABILITIES**

Good morning Chairmen Brennan, Brodsky, Gantt, Cusick, Assembly Member Kellner and the members of your Committees. I am David Yassky, Chairperson/Commissioner of the New York City Taxi and Limousine Commission. I want to thank you for this opportunity to speak to you today about wheelchair accessibility in New York City's yellow taxi and for-hire vehicle industries. Accessibility is an important priority for the Taxi and Limousine Commission, and we are fully committed to ensuring that wheelchair users can access the diverse transportation options provided by our regulated vehicles. Before we discuss today's proposed bills A. 5224 and A. 7842, I would like to briefly discuss what the agency has done to address wheelchair accessibility in New York City's yellow taxi and for-hire vehicle industries.

As you know, the Taxi and Limousine Commission Accessible Dispatch Program was a two-year temporary (pilot) demonstration project that was funded by the City Council and launched in the summer of 2008. TLC demonstration projects allow us to pilot new technologies - the goal of this program was to test how a central dispatching facility would work to dispatch yellow taxis and to measure the demand for wheelchair accessible taxi service. We are currently working on a report - a draft to be completed later this summer - that will outline what we have learned about these issues and discuss the best ways to regulate the yellow and livery industries to provide service for people with disabilities.

Though the report is not yet ready, there are some statistics that we have gathered from the Dispatch Program that will be helpful to discuss today. Generally the program was very expensive and unfortunately not well-utilized. When working with disability advocates to develop the plan, we originally anticipated a call volume of at least 250 calls per day. However, the actual call volume hovered around 8.1 calls per day - this average is based on 5,828 total dispatches for the entirety of the program.

With a two-year budget of \$1,000,000, that comes out to about \$177 per call. Additionally, there have been 2,701 unique users of the program, which unfortunately pales in comparison to the estimated 60,000 wheelchair users in New York City. Although usage was low, we strived to ensure that drivers who operated wheelchair accessible yellow taxis were properly trained, and to date, we have issued 4,444 summonses to drivers and medallion owners who have not complied with our training requirements. We will continue to enforce this training requirement even after the program ends because we believe it is important that all drivers be properly trained to provide the highest level of customer service.

Clearly, the Dispatch Program has not had the reach we anticipated and wanted. One factor could be the economics of the service, some wheelchair users are on a fixed-income, and the quick, on-demand service of yellow taxis is out of many individuals' price range. Our report will discuss this further, along with other topics relating to wheelchair accessibility in our industries, but I felt it pertinent that the members of the Assembly present here today get an overall picture of what has been happening with the Dispatch Program.

Now I would like to discuss our efforts to provide for wheelchair accessibility in the For-Hire Vehicle industry. In 2001, the TLC passed rules requiring the industry to provide accessible service under rule 6-07 (f). This rule requires that all for-hire bases must be able to provide service to people with disabilities as requested, at equivalent prices and response times as non-accessible service. When this rule was passed, we believed it would help ensure passengers that use wheelchairs would have access to service whenever and wherever they needed it. Now, we know the rule has not been fully effective.

To address these concerns, we have conducted enforcement operations – both in the field and through a secret shopper program – where we have issued 80 summonses, each carrying a \$1,000 fine, to 72 For-Hire Vehicle bases since July 2009. Wheelchair accessible service is simply not available on the same terms as for non-wheelchair users. We will continue this enforcement effort until the industry comes into compliance.

I also want to mention our recent work with the MTA's Access-A-Ride program. We are working closely with the MTA to establish a pilot program for approximately 400 of their non-wheelchair subscribers that would allow each individual to use an MTA-issued credit card in a yellow taxi in lieu of using an Access-A-Ride van. We hope to help reduce Access-A-Ride's operating cost and improve its ability to serve its wheelchair subscribers. We hope that this pilot will be a success so it can be expanded to additional customers.

Finally, I would like to tell you a little bit about the Taxi of Tomorrow Request for Proposals. With one of our long-term goals being 100% accessibility of all our fleets, we believe that the Taxi of Tomorrow Request for Proposal will help us get very close to that goal. One of the stated goals of the Request for Proposal, or RFP, is "universal accessibility for all users with a goal of meeting ADA guidelines". We recently received responses for the RFP, and a committee of stakeholders is currently reviewing and evaluating them. We anticipate selecting the successful proposal by the end of this year, and the first vehicles must be on the road no later than the fall of 2014. We are excited for the possible vehicles this RFP may bring to New York City's streets, and what it could mean for all of our regulated industries.

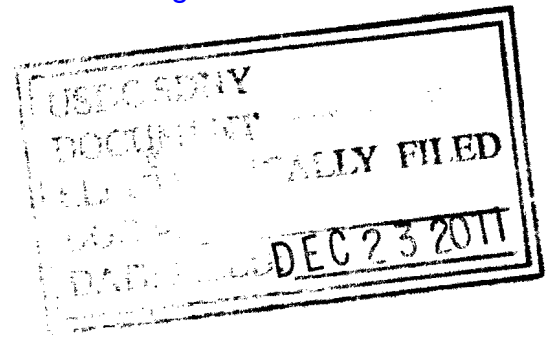
Within the context of what we have done for wheelchair accessibility in New York City's yellow taxi and For-Hire Vehicle industries, I would like to discuss proposed bills A. 5224 and A.7842. Bill A.5224 requires the Taxi and Limousine Commission to create a demonstration project involving 1,000 taxicabs that are wheelchair accessible and "ecology friendly" within six months of the bill's passing. Bill A. 7842 would require that all yellow taxis in New York City be wheelchair accessible by June 2012. To our knowledge, there currently is no vehicle that exists on the market today or even in production that is both "ecology friendly" and wheelchair accessible and would meet the needs of the taxicab industry. Furthermore, requiring that 1,000 medallion owners replace their vehicles with one that is wheelchair accessible six months after A.5224 is signed, or requiring all medallion owners to replace their vehicles with a wheelchair accessible one by June 2012 will cause disruptions in service and negatively affect many medallion owners, as well as drivers, both of whom would have to bear the

financial burden of purchasing a new vehicle before their anticipated retirement date. Though the goals of these bills are laudable, they are currently impractical.

The Taxi of Tomorrow RFP is a process that can help us get closer to some of our most important goals of both greater accessibility and creating a vehicle fleet that is environmentally sustainable. We think it is the appropriate way to get there because it asks automobile makers, those with the most knowledge, to create a taxi for New York City that is, among other things, wheelchair accessible and environmentally sustainable. As I stated earlier in my testimony, we have received responses to the RFP, and a stakeholder committee is currently evaluating them. We believe this process offers the best opportunity for bringing an accessible, clean vehicle that also meets the needs of the taxi industry to market.

This concludes my testimony. I would like to thank you again for the opportunity to testify today on these proposed bills. At this time, I would be happy to answer any questions you may have.

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**



CHRISTOPHER NOEL, SIMI LINTON, UNITED
SPINAL, a nonprofit organization, THE TAXIS
FOR ALL CAMPAIGN, a nonprofit organization,
DISABLED IN ACTION, a nonprofit organization,

Plaintiffs,

-against-

NEW YORK CITY TAXI AND LIMOUSINE
COMMISSION, a charter mandated agency, and
DAVID YASSKY, in his official capacity as
chairman and commissioner of the New York City
Taxi Commission,

Defendants.

MEMORANDUM DECISION AND
ORDER

11 Civ. 237 (GBD)

GEORGE B. DANIELS, District Judge:

Plaintiffs Christopher Noel and Simi Linton, each disabled individuals who require the use of wheelchairs, and United Spinal, The Taxis for All Campaign, 504 Democratic Club, and Disabled in Action, each nonprofit organizations, (collectively, "Plaintiffs") bring this civil rights class action against the New York City Taxi and Limousine Commission ("NYCTLC") and David Yassky, in his official capacity as chairman and commissioner of the NYCTLC (collectively, the "TLC"). Plaintiffs allege that the TLC is violating Title II, subtitle A of the Americans with Disabilities Act ("ADA"), 42 U.S.C. § 12132, Title II, subtitle B of the ADA, 42 U.S.C. § 12144, Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794 *et seq.*, and the New York City Human Rights Law ("NYCHRL"), N.Y.C. Admin. Code §8-101 *et seq.* Plaintiffs claim that the lack of wheelchair accessible taxicabs are a result of the TLC's policies and regulations and thus, the TLC denies disabled persons, who use wheelchairs and scooters and reside in or visit

New York City, the opportunity to use and benefit from the New York City taxicab system.

Plaintiffs move for summary judgment that the TLC is liable for violating Title II, subtitle A and subtitle B of the ADA. The United States filed a statement of interest in this litigation in support of Plaintiffs' motion for summary judgment that the TLC violates Title II, subtitle B of the ADA. The TLC cross-moves for summary judgment dismissing all of Plaintiffs' claims on the grounds that it does not violate any of the applicable requirements of Title II of the ADA.

Plaintiffs' motion for summary judgment on their Title II, subtitle B claim is denied. The TLC's cross-motion for summary judgment on its Title II, subtitle B claim is granted. The TLC's cross-motion for summary judgment on its Title II, subtitle A, Rehabilitation Act, and NYCHRL claims is denied.

Plaintiffs' motion for summary judgment on their Title II, subtitle A claim is granted. The TLC subjects disabled persons who must use wheelchairs and scooters to discrimination in violation of the Americans with Disabilities Act. As a direct result of the TLC's policies and regulations, those disabled persons are not provided meaningful access to the benefits of New York City taxicab service.

Background

Street hail taxicab service provides a valuable benefit to numerous individuals who visit, live or work in New York City. Declaration of Julia M. Pinover in Support of Plaintiffs' Motion for Partial Summary Judgment ("Pinover Decl."), Ex. C. (Chhabra Tr.) at 169: 15-23, 222: 4-14. Taxicabs provide readily available on-demand transportation for passengers to travel to and from jobs, school, political events, doctors, recreation, and

appointments. Taxicabs allow for spontaneity in door to door travel, and for unplanned or unanticipated trips. Declaration of Susan Dooha In Support of Plaintiffs’ Motion for Partial Summary Judgment (“Dooha Decl.”) ¶¶ 11, 20, 22; Declaration of Christopher Noel In Support of Plaintiffs’ Motion for Partial Summary Judgment (“Noel Decl.”) ¶¶ 6-7; Declaration of Simi Linton In Support of Plaintiffs’ Motion for Partial Summary Judgment (“Linton Decl.”) ¶¶ 5, 12, 16. Taxicabs in New York City currently may only provide street hail response taxicab service if issued a medallion by the TLC. Pinover Decl., Ex. C (Chhabra Tr.) at 53:16-54:12.

The TLC is an administrative body established by the New York City Charter which is a part of the government of the City of New York under the Deputy Mayor for Operations. 65 N.Y.C. Charter §§ 2300. Pursuant to the Charter and local law, the TLC regulates the private taxicab industry in New York City through a licensing scheme whereby taxicab owners and drivers obtain licenses from the TLC, and as a condition of licensure, must comply with applicable laws and regulations. *Id.* §§ 2300, 2303; New York City Administrative Code (“Admin. Code”) § 19-504.

Under the City Charter, the TLC “set[s] standards and criteria for the licensing of vehicles,” “adjudicates charges of violation of the provisions of the administrative code and rules,” and establishes “requirements of standards, safety, and design, comfort, convenience, noise, and air pollution control and efficiency.” Pinover Decl., Ex. I (City Charter) at 65 N.Y.C. Charter §§ 2300, 2303. The TLC is also charged with the “development and effectuation of a broad public policy of transportation.” Pinover Decl. Ex. I, (City Charter) 65 N.Y.C. Charter §§ 2300, 2303.

The number of medallions that the TLC can license is currently limited by law to 13,237. 65 N.Y.C. City Charter § 2303(b); Declaration of TLC Deputy Commissioner Ashwini Chhabra (“Chhabra Decl.”) ¶ 71. Of those, at least 231 must be wheelchair accessible. Id. at 20. The TLC thus issues that limited number of wheelchair accessible medallions, which require, as a condition of its use, that the owner of the medallion obtain and utilize a wheelchair accessible vehicle in providing taxicab service. Id. at ¶ 20; Pinover Decl., Ex. A at 2. Taxicab medallion owners can elect to purchase and utilize a wheelchair accessible taxicab even if they do not have an accessible medallion.¹ Pinover Decl., Ex. C (Chhabra Tr.) at 52:24-53:6.

The TLC does not own, lease or operate taxicab vehicles. Chhabra Decl. at ¶ 19. However, the TLC regulations establish the exact specifications for vehicles that may serve as taxicabs. Pinover Decl., Ex. J (TLC Rules) at 35 R.C.N.Y. § 67-05.1 (2011). The TLC has created an approved list vehicles which TLC has verified as meeting the relevant specifications. Id. Of those vehicles, only two are wheelchair accessible. See Transcript of November 22, 2011 Oral Argument at 44: 21-25.

Currently only 233 of the 13, 237 medallion taxicabs in New York City are wheelchair accessible. Chhabra Decl. ¶ 20. Thus, only 1.8% of the medallion taxicab fleet is wheelchair accessible and over 98% is inaccessible. Pinover Decl., Ex. E at 4; Pinover Decl., Ex. C. (Chhabra Tr.) at 70:16-22. As a result, availability is scarce, and wait times for wheelchair accessible taxicabs are much higher than wait times for non-accessible taxicabs. Declaration of Doug Kruse in Support of Plaintiffs’ Motion for Summary Judgment (“Kruse Decl.”) ¶ 12. A non-disabled person is over twenty-five (25) times

¹ New legislation recently passed increasing the number of taxicab medallions available for licensing and sale by the TLC.

more likely to hail a taxicab within ten minutes than is a person who uses a wheelchair. Id. The likelihood of successfully hailing any taxicab in Manhattan within 10 minutes is 87.33%, whereas the likelihood of hailing a handicap accessible cab is 3.31%. Kruse Decl. ¶ 14.

The TLC has taken no steps to require, promote, or provide a financial incentive to non-accessible medallion owners to purchase accessible vehicles. Pinover Decl., Ex. C (Chhabra Tr.) at 61:22-62:6; 63:7-13, 83:20-24. The TLC admits that there is no reason why the TLC could not effectuate an increase in wheelchair accessible taxicabs. Id. at 55:12-15. The TLC is in the process of planning a Medallion Taxicab Wheelchair Accessible Dispatch Program. Chhabra Decl. ¶ 30. Under that program, passengers will be able to call 311 and be connected to a dispatcher who will be able to determine the closest wheelchair accessible taxicab and dispatch that taxicab to the passenger's location. Id. ¶ 35. The exact date on which this program will be available, and the associated response times for taxi dispatch are not yet known. Id. ¶¶ 31, 47.

Summary Judgment Standard

Summary judgment is appropriate where the evidence, viewed in the light most favorable to the non-moving party, shows "that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." Fed. R. Civ. P. 56(c); Vacold, L.L.C. v. Cerami, 545 F.3d 114, 121 (2d Cir. 2008). The burden rests upon the moving party to show that there is no genuine issue of material fact. See Celotex Corp. v. Catrett, 477 U.S. 317, 322-23 (1986). A fact is "material" only where it will affect the outcome of the suit under governing law. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986). For there to be a "genuine" issue about the fact, the evidence must be such

“that a reasonable jury could return a verdict for the nonmoving party.” *Id.* In determining whether there is a genuine issue of material fact, the Court is required to resolve all ambiguities and draw all inferences in favor of the non-moving party. Sec. Ins. Co. of Hartford v. Old Dominion Freight Line, Inc., 391 F.3d 77, 83 (2d Cir. 2004). Where there is no evidence in the record “from which a reasonable inference could be drawn in favor of the non-moving party on a material issue of fact,” summary judgment is proper. Catlin v. Sobol, 93 F.3d 1112, 1116 (2d Cir. 1996).

Here, there is no material factual dispute among the parties. In fact, the TLC acknowledges that it neither ensures that all taxicabs be wheelchair accessible, nor does the TLC provide meaningful access to such services as defined by the ADA. The TLC simply argues that it has no legal obligation under Title II of the ADA to do so. See Transcript of November 22, 2011 Oral Argument at 48:25, 53:13-20 (“We’ve conceded, if your Honor reaches that question [of meaningful access], we lose . . .”)

Statutory and Regulatory Framework

Congress passed the ADA to provide “a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities.” 42 U.S.C. § 12101(b)(1). In order to establish a violation under the ADA, the plaintiffs must demonstrate that (1) they are “qualified individuals” with a disability; (2) that the defendants are subject to the ADA; and (3) that the plaintiffs were denied the opportunity to participate in or benefit from defendants’ services, programs, or activities, or were otherwise discriminated against by defendants, by reason of plaintiffs’ disabilities.

Henrietta D. v. Bloomberg, 331 F.3d. 261, 272 (2d Cir. 2003); See Doe v. Pfrommer, 148

F.3d 73, 82 (2d Cir. 1998). The parties dispute whether the TLC's activities are subject to the relevant requirements of subtitles A and B of Title II of the ADA.

Title II of the ADA prohibits discrimination by public entities in the provision of public services. 42 U.S.C. § 12131 *et seq*; Abrahams v. MTA Long Island Bus, 644 F.3d 110, 115 (2d Cir. 2011). It is divided into subtitles A and B. Subtitle A governs public services generally. It provides that “no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.” 42 U.S.C. § 12132. The Attorney General has the authority to promulgate regulations to implement subtitle A. 42 U.S.C. § 12134(a). Those regulations are codified at 28 C.F.R. § 35 *et. seq*.

Subtitle B of Title II specifically governs the provision of public transportation services by public entities. See 42 U.S.C. §§ 12141-12165. The Secretary of Transportation has the authority to issue final regulations implementing subtitle B. Abrahams, 644 F.3d at 115. Section 12144 of subtitle B governs public entities operating a demand responsive system. A demand responsive system is any system of providing designated public transportation which is not a fixed route system. 42 U.S.C. § 12141. A public entity may not purchase or lease a new vehicle for use that is not readily accessible to and usable by individuals with disabilities, unless the system otherwise provides an equivalent level of service.² 42 U.S.C. § 12144.

² “If a public entity operates a demand responsive system, it shall be considered discrimination for the purposes of [42 U.S.C. § 12132 and 29 U.S.C. § 794], for such entity to purchase or lease a new vehicle for use on such system . . . that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, unless such system, when viewed in its entirety, provides a level of service to

I. THE TLC IS NOT SUBJECT TO TITLE II, SUBTITLE B

The parties agree that the New York City taxicab system is a demand responsive system that is a part of the city's public transportation system. The parties dispute whether the TLC "operates" the taxicab transportation system such that the TLC is subject to subtitle B of Title II.

To determine whether the TLC "operates" the taxicab transportation system, one must first analyze the plain language of the statute. Wiley & Sons, Inc. v. Kirtsaeng, 654 F.3d 210, 218-19 (2d Cir. 2011) (internal citations omitted). Title II provides no guidance in defining "operate." The Second Circuit, however, has suggested that it would be appropriate to adopt the definition from Title III in the context of Title II. See Celeste v. East Meadow Union Free School District, 373 Fed. Appx. 85, 91 (2d Cir. 2010). Under Title III, "'to operate' means 'to put or keep in operation,' 'to control or direct the functioning of,' or 'to conduct the affairs of or manage.'"³ Id. These definitions are also appropriate here. See CSX Corp. v. Children's Inv. Fund Mgt. (UK) LLP, 654 F.3d 276, 290 (2d Cir. 2011) (quoting Dep't of Revenue of Or. v. ACF Indus., Inc., 510 U.S. 332, 342 (1994) ("The normal rule of statutory construction is that 'identical words used in different parts of the same act are intended to have the same meaning.'"))

The term "operate" must be read in context with the remainder of the statute. See In re Ames Dep't Stores, 582 F.3d 422, 427 (2d Cir. 2009) (noting that statutory

such individuals equivalent to the level of service such system provides to individuals without disabilities." 42 U.S.C. § 12144.

³ Based upon a witness's testimony that a local government entity was required to maintain a sidewalk which was not accessible to disabled individuals, the Second Circuit held that the government entity may have been liable under Title II if the entity "effectively control[ed] the area" and remanded the case to the District Court to make that determination. The Second Circuit made no findings on what amount or type of control was necessary to subject the government entity to liability.

interpretation calls for an examination of “the specific context in which [the] language is used, and the broader context of the statute as a whole”) (internal quotation marks omitted)). Relevant to the evaluation are the functions and responsibilities a public entity generally performs in order to either “put or keep in operation, control or direct the functioning of, conduct the affairs of, or manage” a transportation system.

There are certain traditional indications that a public entity is operating a transportation system. For example, generally the entity performs as a business directly providing transportation services to the public. It usually collects fares and receipts from its passenger-customers in exchange for providing transportation services. The entity usually will purchase or lease and maintain the necessary equipment, including vehicles, to run that system. Further, the entity may plan service routes and schedules to ensure reliable service on the system. The entity also generally hires, fires, and manages the employees who drive and maintain the vehicles on the system. It is clear that the TLC does not operate a taxicab transportation system in any traditional business model sense.

However, a public entity need not operate its transportation system itself to be subject to the provisions of Title II, subtitle B. Subtitle B defines “the term “operates” as used with respect to a . . . demand responsive system [to] include[] operation of such system by a person under a contractual or other arrangement or relationship with a public entity.” 42 U.S.C. § 12141. A common example of such a relationship is when a public entity contracts with a private entity to provide public transportation services that the public entity would otherwise provide directly to the public. In that case, the private entity would stand in the shoes of the public entity and assume all of the responsibilities of the public entity. The public entity thus would have to ensure that the private entity complies

with the public entity requirements of subtitle B of Title II. The TLC has no such standard contractual relationship with a private entity to operate a transportation system that provides public transportation services.

Plaintiffs and the United States contend that the TLC “operates” the New York City taxicab fleet under such “other arrangement or relationship” with private medallion owners. Rather than merely regulate the fleet, it is argued that the TLC exercises extensive control over it. The United States argues that the TLC is using private medallion holders it controls to provide taxicab service as a part of the city’s public transportation network. Accordingly, the United States argues that the TLC is required to ensure all individual medallion holders comply with all requirements applicable to public entities under subtitle B of Title II. Plaintiffs and the United States, however, offer no case law in support of their argument that extensive regulation alone should be interpreted as “operation” of the system.⁴

The TLC is a public regulatory agency. The TLC’s regulation of the taxicab industry does not legally equate to the TLC “operating” the taxicab transportation system. The TLC has extensive regulatory powers to, among other things, license medallion owners, vehicles and drivers, establish rates, standards of service and safety. However, the

⁴ Plaintiffs and the United States cited only James v. Peter Pan Transit System in support of their novel theory that the TLC is subject to subtitle B of Title II as a result of their regulatory control of the taxicab system. See Tr. 36:12-23; James v. Peter Pan Transit System, No. 97 CV 747, 1999 WL 735173, at *2 (E.D.N.C. January 20, 1999). However, that court explicitly noted that Plaintiffs’ claim against the city defendant arose under subtitle A of Title II, not subtitle B. Id. There, in evaluating whether the city defendant was subject to subtitle A, the court discussed the division of responsibilities between a public and private entity in operating a demand responsive transportation system, which included route and schedule planning, hiring, firing, and training employees, and purchasing and maintaining vehicles.

TLC has no authority to provide services, and does not function as a transportation services provider, to the public. Nor does any private entity carry out such functions on its behalf.

Most significantly, the legal obligation imposed by Title II, subtitle B is the requirement that the public entity operating a transportation system purchase only wheelchair accessible vehicles for use in that system. Neither the TLC, nor any private entity with which it has a contractual or any other arrangement or relationship to “operate” such a system, purchases or leases vehicles at all.⁵ Instead, taxicab drivers or fleet owners privately purchase their own vehicles, and make independent decisions on whether to operate a taxicab at any given time, day, or location within New York City.

Given the TLC’s lack of independent authority to operate a system absent private individuals’ decisions to provide transportation service, one cannot construe the TLC’s regulatory authority to be a public entity’s power “to put or keep in operation, to control or direct the functioning of, to conduct the affairs of, or manage” a public transportation system. Instead, the TLC licenses and regulates the manner in which private individuals and entities provide private transportation services on their own behalf, to ensure that the New York City taxicab industry is safe and efficient for the public.

The regulations promulgated by the DOT directly support the conclusion that the TLC does not operate the transportation system as defined in subtitle B of Title II.⁶

⁵ Plaintiffs and the United States argue that no actual purchase or lease of vehicles by an entity is necessary for it to be subject to subtitle B, but instead the power to control which cars are purchased or leased is sufficient. However, neither party offers legal support for this position. Given the plain language of subsection B of Title II that it is discrimination for a public entity that operates a demand responsive system “*to purchase or lease a new vehicle*” for use on the system which is not wheelchair accessible, this argument must be rejected.

⁶ The DOT’s agency regulations are entitled to controlling weight unless they are “arbitrary, capricious, or manifestly contrary to the statute, and its manual is given substantial deference unless another reading is compelled by the regulation’s plain language.” Innovative Health Sys. Inc. v. White Plains, 117 F.3d 37, 45 (2d Cir. 1997); See Chevron U.S.A., Inc. v. Natural

Pursuant to 49 C.F.R. § 37.37, “[a] private entity does not become subject to the requirements of [49 C.F.R. § 37] for public entities, because it . . . is regulated by, or is granted a franchise or permit to operate by a public entity.”

Plaintiffs and the United States argue that subtitle B of Title II requires the TLC to mandate that all taxicabs purchased by medallion owners be wheelchair accessible. However, such a reading of Title II, subtitle B would conflict with Title III and the DOT’s regulation exempting private providers of taxi service from purchasing wheelchair accessible cabs. See 42 USC § 12184 (requiring that private entities providing public transportation to purchase wheelchair accessible vehicles *other than automobiles*) (emphasis added); 37 C.F.R. § 37.29(b) (“Providers of taxi service are not required to purchase or lease accessible automobiles”).

Plaintiffs argue that because the TLC exercises such control over the taxicab system that they have an obligation to make that system compliant with the provisions of subtitle B of Title II. Title III cannot be read as exempting taxicab owners from any requirement that they purchase wheelchair accessible automobiles, but at the same time have intended that subtitle B of Title II impose such a personal obligation based solely on the extent of the control of the public regulatory agency. The effect would be to impose an obligation on those private owners under subtitle B of Title II that Congress explicitly intended to exempt under Title III. Congress had the same power to require regulated private owners providing taxi service to purchase wheelchair accessible automobiles under Title III, and chose not to do so. Thus, the reasonable interpretation of subtitle B of Title II, applicable to public entities, is that, where the city itself is providing transportation

Resources Defense Council Inc., 467 U.S. 837, 844 (1984); Thomas Jefferson Univ. v. Shalala, 512 U.S. 504, 510-12 (1994).

service, or has a private entity stand in its shoes⁷ to provide that service, subtitle B of Title II requires that wheelchair accessible vehicles be purchased or leased for the provision of those transportation services to the public.

Subtitle B of Title II does not mandate the purchase of wheelchair accessible taxicabs because the TLC is a regulatory agency which neither operates a taxi transportation system, nor purchases new vehicles for such purpose.

II. THE TLC VIOLATES SUBTITLE A OF TITLE II

All of the TLC's Activities are Subject to Subtitle A

“As a remedial statute, the ADA must be broadly construed to effectuate its purpose” of providing a clear and comprehensive mandate for the elimination of discrimination against individuals with disabilities. Innovative Health Sys. v. White Plains, 931 F. Supp. 222, 232 (S.D.N.Y. 1996), *aff'd in part*, 117 F.3d 37, 45 (2d Cir. 1997). Consistent with this intent, the Second Circuit Court of Appeals has interpreted the phrase “programs, services, or activities” in Title II, subtitle A to be “a catch-all phrase that prohibits discrimination by a public entity, regardless of the context.” *Id.* In interpreting the provision, the Second Circuit recognized that the legislative history explains that [Title II] “simply extends the anti-discrimination prohibition in [the Rehabilitation Act] to all

⁷ Notably, the commentary to the final DOT rule discusses this “stand in shoes” concept both in explaining the addition of private entities in the definition of “operate” and the rationale behind the “by contract, or other arrangement” language clarified in 37 C.F.R. § 23. The commentary notes that the addition of the reference to private entities into the definition of “operate,” forms the basis for the “stand in the shoes” provision affecting contractors to other transportation providers. The commentary also explains that 37 C.F.R. § 23 embodies the “stand in the shoes” concept which requires that where a public entity contracts with a private entity to *provide* transportation service, the private entity must play by the public entity’s rules with respect to vehicle acquisition and transportation services. It further gives an example of an “other arrangement” that falls into the “stand in shoes” rationale—where a utility company is required by law to provide transit service on behalf of the city government and the city government in turn provides that utility with federal funds received to run the transportation service. 56 FR 45584-01 (Sept. 6, 1991).

actions of state local governments.” Id. It further noted that the preamble to the Department of Justice regulations explain that “[a]ll governmental activities of public entities are covered.” Id. (quoting 28 C.F.R. § 35, app. A at 456 (1996)).

The Department of Justice regulations implementing subtitle A of Title II further clarify what activities performed by public entities are covered. For example, “a public entity in providing any aid, benefit or service, may not, directly, or through contractual, licensing, or other arrangements, on the basis of disability, deny a qualified individual with a disability the opportunity to participate in or benefit from the aid, benefit or service.” 28 C.F.R. § 35.130(b)(1)(i) Public entities may not “utilize criteria or methods of administration. . . that have the effect of subjecting qualified individuals with disabilities to discrimination on the basis of disability. . .” 28 C.F.R. § 35.130(b)(3)(i) Public entities are also prohibited from “establishing requirements for programs or activities of licensees that subject qualified individuals with disabilities to discrimination on the basis of disability. 28 C.F.R. § 35.130(b)(6).

The TLC concedes that it is a public entity subject to subtitle A of Title II of the ADA. However, it argues that the “service, program, or activity” that it provides is merely the licensing of taxicab owners and drivers. Therefore, the TLC argues that subtitle A only prohibits the TLC from discriminating against disabled individuals who seek TLC licenses. Its argument appears to be that any other regulatory activities that may have an adverse discriminatory effect on disabled taxicab riders are not subject to subtitle A.

During oral argument, the TLC claimed that it has no legal responsibility under the ADA even where their regulations would otherwise have discriminatory effects on disabled taxicab riders. It claimed no obligation to provide any wheelchair accessible

vehicles, despite its authority to choose exactly which taxicabs are permitted for service in the New York City taxicab system. The TLC argued that it may have a moral obligation, but not a legal obligation, to provide wheelchair accessible service to disabled persons. The TLC voluntarily intends to pursue significant improvements in the near future. However, the TLC's arguments of no legal obligation are unsupported by, and directly conflict with, this Circuit's interpretation of the ADA generally, and subtitle A of Title II specifically.

The TLC is a public entity carrying out a public regulatory function that affects and confers a benefit on New York City taxicab riders. They directly establish requirements for the programs and activities of private taxicab licensees. Under the Second Circuit's expansive interpretation of "programs, services or activities," and corresponding DOJ regulations, there can be no doubt that the TLC's regulatory activities are governmental activities of a public entity. Thus, the TLC cannot discriminate in any of those activities. "Th[is] prohibition [against discrimination] applies to action that carries a discriminatory effect, regardless of the government's motive or intent." Henrietta D. v. Guiliani, 119 F. Supp. 2d 181, 206 (E.D.N.Y. 2000). The TLC is legally obligated by subtitle A of Title II of the ADA to ensure that the exercise of its regulatory powers does not discriminate against disabled passengers.

The TLC Denies Disabled Persons Who Require Wheelchairs Meaningful Access to the New York City Taxicab System

To determine whether the TLC discriminates in violation of subtitle A of Title II, "the relevant inquiry is not whether the benefits available to persons with disabilities and to others are actually equal, but whether individuals with disabilities have 'meaningful access' to the benefit that the grantee offers." Henrietta D., 331 F.3d at 273 (citing

Alexander v. Choate, 469 U.S. 287, 301 (1985)). To ensure meaningful access, reasonable accommodations for access to the grantee's program or benefit may have to be made.⁸ Id.

Here, the TLC regulates in order to “transform the yellow taxicabs into an essential part of New York City’s public transportation system,” and effectuate a broad public policy in aid of the continuation, development, and improvement of the service and safety and convenience of the public. Through its extensive regulation, the TLC ensures the public benefit of safe and efficient New York City taxicab service. The TLC does not presently⁹ provide meaningful access to this public benefit for disabled individuals who require wheelchairs.

The TLC mandates precisely which types of vehicles may be driven as New York City taxicabs. The TLC has designated sixteen potential vehicles for use as taxicabs, only two of which are wheelchair accessible. The TLC has admitted that it has both the ability and authority to provide more wheelchair accessible vehicles, but it has chosen not to do so. As a result of the TLC’s regulations and policies, only 232 New York City taxicabs, out of a total of 13,237 are accessible to individuals using wheelchairs. As a result, a non-

⁸ Amicus, the Taxicab, Limousine, and Paratransit Association (“TLPA”) argues that Plaintiffs have an initial burden to prove a lack of program accessibility and to propose a plausible accommodation, the costs of which facially do not outweigh the benefits. Only then, they argue, does the burden shift to the defendants to demonstrate that the plausible accommodation imposes an undue hardship. See TLPA Amicus Br. At 5-6. None of the cases which the TLPA cites stand for this proposition. Further, even if such a burden were imposed on the Plaintiffs, they have made clear that the reasonable accommodation they seek is additional wheelchair accessible vehicles. The TLC, the only party with standing, has made no arguments that this accommodation would pose an undue hardship on them.

⁹ The recent legislation signed by Governor Cuomo providing for a greater number of wheelchair accessible taxicabs and livery cabs, and the TLC’s proposed dispatch system may be steps towards providing meaningful access to the New York City taxicab system to disabled persons who require wheelchairs. However, meaningful access for the disabled to public transportation services is not a utopian goal or political promise, it is a basic civil right. Title II requires immediate and full compliance.

disabled person is over twenty-five (25) times more likely to hail a taxi within ten minutes than is a person who uses a wheelchair.

On this record, what would constitute meaningful access need not be determined. It is clear, however, that less than 2% of the city's fleet being wheelchair accessible, resulting in the unavailability of taxi transportation and significantly increased wait times for disabled persons who require wheelchairs, is not meaningful access. In fact, during oral argument, the TLC conceded that its regulations do not provide meaningful access to individuals who require wheelchairs. It must do so. Until it does, the TLC is in violation of subtitle A of Title II of the ADA.

The acknowledged lack of meaningful access is a direct result of the policies, practices, and regulations of the TLC. The TLC's exercise of its regulatory authority alone has created the discriminatory effects on disabled riders who require the use of wheelchairs. Only the proper exercise of that authority can fix the problem that it created and neglected in the past. The disabled who seek meaningful access to taxicab services have nowhere else to turn to enforce their civil rights.

The TLC must propose a comprehensive plan to provide meaningful access to taxicab service for disabled wheelchair bound passengers. Such a plan must include targeted goals and standards, as well as anticipated measurable results. Until such a plan is proposed and approved by this Court, all new taxi medallions sold or new street-hail livery licenses or permits issued by the TLC must be for wheelchair accessible vehicles.

Conclusion


Plaintiffs' motion for summary judgment on their Title II, subtitle B claim is denied. The TLC's cross-motion for summary judgment on its Title II, subtitle B claim is

granted. The TLC's cross-motion for summary judgment on its Title II, subtitle A, Rehabilitation Act, and NYCHRL claims is denied.¹⁰

Plaintiffs' motion for summary judgment on their Title II, subtitle A claim is granted.

Dated: December 23, 2011
New York, New York

SO ORDERED:



GEORGE B. DANIELS
United States District Judge

¹⁰ The TLC moved for summary judgment on its Rehabilitation Act and NYCHRL claims on the same grounds as its Title II, subtitle A claims. Thus, the Title II, subtitle A analysis applies to those claims as well. See Henrietta D., 331 F.3d 261, 272 (2d Cir.2003); Lovejoy-Wilson v. NOCO Motor Fuel, Inc., 263 F.3d 208, 212 n. 3 (2d Cir. 1998).

6118--A

Cal. No. 78

I N S E N A T E

(PREFILED)

January 4, 2012

Introduced by Sens. GOLDEN, ESPAILLAT -- read twice and ordered printed, and when printed to be committed to the Committee on Cities -- reported favorably from said committee, ordered to first report, amended on first report, ordered to a second report and ordered reprinted, retaining its place in the order of second report

AN ACT to amend chapter 602 of the laws of 2011 relating to livery permits in the city of New York, in relation to authorizing New York city to issue up to two thousand new taxicab licenses to vehicles that are accessible to individuals with disabilities, authorizing New York City to issue eighteen thousand hail vehicle licenses and authorizing up to four hundred fifty hail base permits to for-hire base stations; and to amend the tax law, the administrative code of the city of New York and the vehicle and traffic law, in relation to taxicabs and HAIL licenses in New York city; and to repeal certain sections of chapter 602 of the laws of 2011 relating to livery permits in the city of New York

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Legislative findings. The legislature finds and declares
2 that the public health, safety and welfare of the residents of the state
3 of New York traveling to, from and within the city of New York is a
4 matter of substantial state concern, including access to safe and reli-
5 able mass transportation such as taxicabs. The majority of residents and
6 non-residents of the city of New York do not currently have sufficient
7 access to legal, licensed taxicabs available for street hails in the
8 city of New York. Additionally, the legislature finds and declares that
9 it is a matter of public health, safety and welfare to ensure adequate
10 and reliable transportation accessible to individuals with disabilities
11 in the city of New York. Currently, approximately 1.8 percent of the
12 city's approximately thirteen thousand yellow taxicabs is accessible to
13 individuals with disabilities, and an even smaller percentage of the
14 city's approximately twenty-three thousand livery vehicles is accessi-
15 ble. This supply of accessible vehicles is insufficient to provide

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 adequate and reliable transportation for the residents of and the commu-
2 ters and visitors to New York city who have disabilities and therefore
3 inhibits their basic daily activities. This lack of accessible vehicles
4 also prevents individuals with disabilities from being able to rely on
5 the street hail system to get to a destination quickly, particularly in
6 an emergency, or to travel to a location not near a subway or bus stop.
7 Improving access to mass transportation, including taxicabs, for the
8 residents of and the commuters and visitors to New York city furthers
9 these matters of substantial state concern.

10 S 2. Sections 2, 3 and 5 of chapter 602 of the laws of 2011 relating
11 to livery permits in the city of New York are REPEALED.

12 S 3. Sections 4 and 6 of chapter 602 of the laws of 2011 relating to
13 livery permits in the city of New York, are amended to read as follows:

14 S 4. HAIL BASE PERMIT ISSUANCE. The New York city taxi and limousine
15 commission OR SUCCESSOR AGENCY is hereby authorized to issue non-trans-
16 ferable permits to for-hire vehicle base stations established pursuant
17 to section 19-511 of the administrative code of the city of New York,
18 allowing such base stations to be affiliated with holders of [permits]
19 LICENSES issued pursuant to section [three] FIVE of [this act] THE CHAP-
20 TER OF THE LAWS OF 2012 WHICH AMENDED THIS SECTION ("hail [privilege]
21 base permit"), provided that no more than four hundred fifty permits
22 shall be held at one time. Every holder of a hail [privilege] vehicle
23 [permit] LICENSE issued pursuant to section [three of this act] FIVE OF
24 THE CHAPTER OF THE LAWS OF 2012 WHICH AMENDED THIS SECTION shall be
25 affiliated with one such base station. Hail [privilege] base permits

26 shall be issued to base stations pursuant to this section for a fee in
27 the amount of three thousand dollars, and shall be valid for three years
28 prior to renewal. [Such] THE right to renewal shall be automatic, upon
29 payment of a renewal fee, if the base station is in good standing. Such
30 RENEWAL fee amount may be increased by such taxi and limousine commis-
31 sion or successor agency to account for changes in the [United States]
32 NEW YORK - NORTHERN NEW JERSEY - LONG ISLAND consumer price index,
33 adjusted for inflation. The initial [sale] ISSUANCE of such hail [privi-
34 lege] base permits will be limited to existing for-hire vehicle base
35 stations established pursuant to section 19-511 of the administrative
36 code of the city of New York, that have been in operation for at least
37 three years AND ARE IN GOOD STANDING WITH SUCH TAXI AND LIMOUSINE
38 COMMISSION OR SUCCESSOR AGENCY. Such hail [privilege] base permits shall
39 be issued beginning no later than the public sale of the additional
40 taxicab [medallions] LICENSES issued pursuant to section [two of this
41 act] EIGHT OF THE CHAPTER OF THE LAWS OF 2012 WHICH AMENDED THIS
42 SECTION. The city of New York, acting through such taxi and limousine
43 commission OR SUCCESSOR AGENCY, is hereby authorized and empowered to
44 take such actions as are necessary and desirable to implement the
45 provisions of this section, subject only to the procedures and limita-
46 tions set forth in this section, and shall not be required to engage in
47 any review provided for by any provision of law or make or obtain any
48 determination not expressly required by this section.
49 S 6. This act shall take effect immediately. THIS ACT SHALL BE
50 CONSTRUED AS A WHOLE, AND ALL PARTS OF IT ARE TO BE READ AND CONSTRUED
51 TOGETHER. IF ANY PART OF THIS ACT OR ANY AMENDMENTS MADE THERETO BY THE
52 CHAPTER OF THE LAWS OF 2012 WHICH AMENDED THIS SECTION SHALL BE ADJUDGED
53 BY ANY COURT OF COMPETENT JURISDICTION TO BE INVALID, THE REMAINDER OF
54 THIS ACT SHALL BE INVALIDATED AND SHALL BE DEEMED TO HAVE NOT TAKEN
55 EFFECT, PROVIDED HOWEVER THAT THE VALIDITY OF ANY TAXICAB LICENSE ISSUED
56 BEFORE THE DATE THAT THIS ACT IS DECLARED INVALID SHALL NOT BE AFFECTED.
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1 S 4. Definitions. Notwithstanding any other law to the contrary, as
2 used in this act, the term:
3 (a) "Accessible vehicle" means a for-hire vehicle that is designed for
4 the purpose of transporting persons in wheelchairs or contains a phys-
5 ical device or alteration designed to permit access to and enable the
6 transportation of persons in wheelchairs in accordance with the Ameri-
7 cans with Disabilities Act.
8 (b) "Hail Accessible Inter-borough license" or "HAIL license" means a
9 license issued by the New York city taxi and limousine commission that
10 authorizes a designated vehicle to pick up passengers by street hail
11 outside of the HAIL exclusionary zone. Provided, however, that a HAIL
12 vehicle shall be permitted to accept passengers by prearranged call at
13 airports and outside the HAIL exclusionary zone.
14 (c) "HAIL exclusionary zone" means airports in the city of New York in
15 which a HAIL vehicle is prohibited from pick-up of passengers by street
16 hail and that area of the city of New York in Manhattan south of east
17 ninety-sixth street and south of west one hundred tenth street in which
18 a HAIL vehicle is prohibited from pick-up of passengers by street hail
19 or pre-arranged call and in such other areas as the TLC shall by rule
20 prohibit HAIL vehicles from accepting passengers by street hail consist-
21 ent with this act. Provided, however, that a HAIL vehicle shall be
22 permitted to accept passengers by prearranged call at airports and
23 outside the HAIL exclusionary zone.
24 (d) "For-hire vehicle" means a motor vehicle carrying passengers for-
25 hire in the city, with a seating capacity of twenty passengers or less,
26 not including the driver, other than a taxicab, coach, commuter van or
27 an authorized bus operating pursuant to applicable provisions of law.
28 For the purpose of this subdivision, "seating capacity" shall include
29 any plain view location which is capable of accommodating a normal adult
30 as part of an overall seat configuration and design and is likely to be
31 used as a seating position while the vehicle is in motion.
32 (e) "For-hire driver" means a driver licensed pursuant to paragraph
33 (iii) of subdivision a of section 19-505 of the administrative code of
34 the city of New York.
35 (f) "HAIL vehicle" means a for-hire vehicle having a taximeter and a
36 TLC-sanctioned trip record system and subject to a HAIL license.
37 (g) "TLC" means the New York city taxi and limousine commission or a
38 successor agency.
39 S 5. HAIL license issuance. (a) The TLC is hereby authorized to issue
40 hail accessible inter-borough licenses. No more than eighteen thousand
41 HAIL licenses shall be issued.
42 (b) Six thousand of such HAIL licenses shall be issued within twelve
43 months from the date on which the first HAIL license is issued ("first
44 issuance"). Any of the six thousand licenses authorized for such issu-
45 ance not issued within the first twelve months shall be authorized for
46 issuance in the second issuance in addition to those authorized in the
47 second issuance, as defined in this subdivision. Twenty percent of the
48 HAIL licenses issued in the first issuance will be restricted to acces-

49 sible vehicles, and for every block of one thousand HAIL licenses
50 issued, the twenty percent requirement must be met prior to the issuance
51 of any additional HAIL licenses. The TLC will study and report on the
52 accessibility of vehicles with HAIL licenses in the Disabled Accessibil-
53 ity Plan and may recommend that a different percentage of HAIL licenses
54 be restricted to accessible vehicles for the remaining twelve thousand
55 HAIL licenses. Without such approved modification, twenty percent of the
56 remaining twelve thousand licenses will be restricted to accessible
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1 vehicles, and for every block of one thousand HAIL licenses issued, the
2 twenty percent requirement must be met prior to the issuance of any
3 additional HAIL licenses. Twelve months after the first issuance, the
4 TLC may issue up to six thousand additional HAIL licenses (the "second
5 issuance"). One year after the second issuance, the TLC may issue up to
6 six thousand additional HAIL licenses ("third issuance"). Any of the
7 HAIL licenses authorized for issuance during the first and second issu-
8 ances not issued within the first twenty-four months shall be authorized
9 for issuance in addition to those authorized in the third issuance. The
10 TLC may reissue pursuant to this act a HAIL license that is revoked or
11 has otherwise reverted to the TLC. Within the first three years of the
12 first issuance, HAIL licenses may be issued only to owners of for-hire
13 vehicles or for-hire drivers who have been licensed by the TLC for at
14 least one year and are in good standing with the TLC; provided that
15 three months after the first issuance any remaining HAIL licenses in the
16 first issuance restricted to accessible vehicles authorized for issuance
17 may be issued without regard to such restrictions in a manner to be
18 determined by the TLC.

19 (c) An individual or entity may only own one HAIL license except that
20 an individual or entity may own not more than five HAIL licenses
21 restricted to accessible vehicles. A HAIL license not restricted to
22 accessible vehicles may not be transferred or issued to an individual or
23 entity if such individual or entity has a fiduciary relationship with,
24 an ownership interest in or is otherwise a member of any other entity,
25 including without limitation a corporation, partnership, limited liabil-
26 ity corporation, limited liability partnership, joint venture or associ-
27 ation that owns a HAIL license issued or transferred pursuant to this
28 section and section seven of this act. A HAIL license restricted to
29 accessible vehicles may not be transferred or issued to an individual or
30 entity if such individual or entity has a fiduciary relationship with,
31 an ownership interest in or is otherwise a member of any other entity or
32 combination of entities, including without limitation a corporation,
33 partnership, limited liability corporation, limited liability partner-
34 ship, joint venture or association that in the aggregate owns five HAIL
35 licenses restricted to accessible vehicles issued or transferred pursu-
36 ant to this section and section seven of this act.

37 (d) HAIL licenses shall be issued for a fee in the amount of one thou-
38 sand five hundred dollars in the first issuance, three thousand dollars
39 in the second issuance and four thousand five hundred dollars in the
40 third issuance. A HAIL license shall be valid for three years prior to
41 renewal. The right to renewal shall be automatic, upon payment of a
42 renewal fee in an amount to be specified by the TLC, if the owner is in
43 good standing.

44 (e) The TLC may designate additional areas outside of Manhattan to be
45 included in the HAIL exclusionary zone, based upon the HAIL market anal-
46 ysis pursuant to section six of this act.

47 (f) Nothing in this section shall prohibit an owner of a for-hire
48 vehicle that is not a HAIL vehicle from accepting prearranged calls from
49 a for-hire vehicle base station established pursuant to section 19-511
50 of the administrative code of the city of New York from picking up
51 passengers by pre-arranged call inside the HAIL exclusionary zone,
52 provided that such owner is licensed to do so. Nothing in this section
53 shall prohibit the owner of a HAIL vehicle from accepting a pre-arranged
54 call from a for-hire base outside the HAIL exclusionary zone and at
55 airports.

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1 (g) Nothing in this section shall prohibit an owner of a for-hire
2 vehicle who possesses a HAIL license from allowing a driver who meets
3 the TLC's designated standards to operate the vehicle and exercise the
4 privileges of the HAIL license. The TLC may by rule govern the equipment
5 of such vehicles, including but not limited to meters that calculate the
6 fares that may be charged for trips in such vehicles. The TLC may by
7 rule provide for the licensing of businesses which manufacture and
8 provide such equipment to the owners of HAIL vehicles and adopt penal-
9 ties for drivers who charge fares in excess of the approved rate of fare
10 or refuse to take passengers to any destination within the city of New
11 York provided that rules promulgated for the purposes of licensing shall
12 comply with chapter 45 of the charter of the city of New York and
13 provided further that the TLC shall, before revoking or suspending any
14 such license, provide such licensee notice and an opportunity for an

15 adjudication pursuant to section 1046 of the charter of the city of New
16 York.

17 (h) The city of New York, acting through the TLC, is hereby authorized
18 and empowered to take such actions as are necessary and desirable to
19 implement the provisions of this section and section nine of this act,
20 subject only to the procedures and limitations set forth in this act,
21 and shall not be required to engage in any review provided for by any
22 provision of law or make or obtain any determination not expressly
23 required by this act.

24 S 6. HAIL market analysis. Prior to the second issuance and third
25 issuance, the TLC shall prepare and submit (i) to the council of the
26 city of New York for its comments, (ii) for public comment, and (iii) to
27 the New York state department of transportation for its comments, a HAIL
28 market analysis examining HAIL vehicle rider demand, shortages, and the
29 need for adequate and affordable transportation, including an analysis
30 of (a) the need for additional HAIL licenses to meet rider demand, (b)
31 the adequacy of enforcement provisions governing HAIL licenses, (c) the
32 adequacy of the HAIL exclusionary zone, (d) the state of the market for
33 issuance or other transfer of such licenses, (e) the impact of such new
34 licensing on for-hire vehicle license owners, taxicab license owners and
35 other industry participants that have not obtained such license, (f) the
36 impact of additional license issuance on traffic safety and street
37 congestion within the city of New York, (g) the need for related statu-
38 tory or regulatory changes, (h) actions by the TLC on: (i) the promul-
39 gation of rules and regulations governing HAIL vehicles and the enforce-
40 ment of existing laws, rules and regulations governing for-hire
41 vehicles, taxicabs, HAIL vehicles and vehicles that operate without a
42 valid license issued by the TLC, (ii) the allocation of resources for
43 enforcement and (iii) deterring and punishing individuals who repeatedly
44 violate such laws, rules and regulations; and (i) implementation of the
45 HAIL license system and its integration into the New York city transit
46 system.

47 S 7. Transfer of the HAIL licenses. Subject to subdivision (c) of
48 section five of this act, each HAIL license issued by the TLC shall be
49 transferable to owners of for-hire vehicles licensed by the TLC or a
50 for-hire driver in good standing with the TLC.

51 S 8. Accessible taxicab license issuance. The city of New York may,
52 acting by the mayor alone, administratively authorize the TLC or its
53 successor agency to issue up to two thousand taxicab licenses in addi-
54 tion to those already issued, provided, however, that such taxicab
55 licenses shall be restricted to vehicles designated for the purpose of
56 transporting persons in wheelchairs or containing a physical device or
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1 alteration designed to permit access to and enable the transportation of
2 persons in wheelchairs in accordance with the Americans with Disabili-
3 ties Act, provided further that such additional licenses shall be issued
4 by public sale and shall be fully transferable and provided further that
5 no more than four hundred of the taxicab licenses authorized to be
6 issued pursuant to this act may be issued until the Disabled Accessibil-
7 ity Plan is approved by the New York state department of transportation.
8 The TLC shall prescribe by regulation the procedures for the issuance
9 and public sale of such additional licenses, by public auction, sealed
10 bids or other competitive process. The authorization provided in this
11 section is conditioned upon the TLC making available for issuance the
12 licenses and permits authorized pursuant to section five of this act and
13 section 4 of chapter 602 of the laws of 2011 relating to livery permits
14 in the city of New York.

15 S 9. Promoting accessibility. (a) The TLC shall establish a program to
16 support the introduction of accessible vehicles into the HAIL vehicle
17 fleet by: (i) providing grants to purchasers of HAIL licenses
18 restricted to accessible vehicles as provided in subdivision (b) of this
19 section; or (ii) providing vehicles to purchasers of the HAIL licenses
20 restricted to accessible vehicles on affordable and financially feasible
21 terms.

22 (b) Purchasers of hail licenses restricted to accessible vehicles
23 issued pursuant to this act shall be eligible to apply for grants in an
24 amount up to fifteen thousand dollars, which shall be applied towards
25 the costs of: (i) purchasing an accessible vehicle for use as a HAIL
26 vehicle; or (ii) retrofitting a vehicle to be an accessible vehicle for
27 use as a HAIL vehicle. The total amount of such grants shall not exceed
28 fifty-four million dollars.

29 (c) The TLC may increase the amount of each grant by an amount it
30 deems necessary to encourage the availability of accessible vehicles.

31 (d) The TLC shall administer the program established pursuant to this
32 section and shall establish rules and regulations necessary to implement
33 the provisions of this section.

34 (e) All accessible vehicles shall be inspected at an inspection facil-
35 ity operated by the TLC not less than once every eight months, in
36 accordance with a procedure to be established by the TLC to ensure that
37 such vehicles are accessible vehicles. If any such vehicle fails to pass

38 its inspection for any reason relating to such standards, it shall be
39 reinspected. The TLC or any other agency authorized by law may conduct
40 on-street inspections of vehicles licensed pursuant to the provisions of
41 this act. The date of the inspection of such vehicle and the signature
42 of the persons making the inspection shall be recorded upon a certifi-
43 cate to be posted in each such vehicle. An owner shall be ordered by
44 the TLC to repair or replace his or her vehicle where it appears that it
45 is no longer an accessible vehicle. Upon failure of such owner to have
46 his or her vehicle inspected or to comply with any such order within ten
47 days after service thereof, the license shall be suspended; upon failure
48 of such owner to comply with any such order within one hundred twenty
49 days after service thereof, the license may, at the discretion of the
50 TLC, be deemed to have been abandoned by non-use.

51 S 10. Disabled accessibility plan. Not later than one year after the
52 initial issuance of HAIL vehicle licenses, the TLC shall prepare and
53 submit to the New York state department of transportation a comprehen-
54 sive plan (the "disabled accessibility plan") that:

55 (a) sets forth an accessibility plan that (i) will lead to meaningful
56 accessibility over a period of years for individuals with disabilities
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1 to all taxicabs, for-hire vehicles and HAIL vehicles through a gradual
2 phase-in of accessible vehicles to the taxicab, for-hire vehicle and
3 HAIL vehicle transport system, (ii) makes accessible vehicles available
4 based on need within geographic areas of the city of New York by for-
5 hire vehicle base stations established pursuant to section 19-511 of the
6 administrative code of the city of New York and provides the method to
7 be used by the TLC to calculate such need and monitor availability and
8 (iii) may include alternate means of increasing marketability and
9 adequacy of incentives to purchase accessible licenses so that accessi-
10 bility requirements can be achieved;

11 (b) The disabled accessibility plan either shall contain a recommenda-
12 tion for the percentage of HAIL licenses issued in the second and third
13 issuances to be restricted to accessible vehicles, or if no recommenda-
14 tion is made, the required percentage of HAIL licenses restricted to
15 accessible vehicles set for the first issuance shall remain in effect
16 for the second and third issuances, and the TLC shall continue to
17 require that for every block of one thousand HAIL licenses issued, the
18 twenty percent requirement provided in subdivision (b) of section five
19 of this act must be met prior to the issuance of any additional HAIL
20 licenses.

21 (c) The disabled accessibility plan shall be prepared in consultation
22 and cooperation with disability rights advocates and other stakeholders
23 and shall be submitted to the council of the city of New York for its
24 comments, which comments shall be considered by the TLC prior to its
25 submission to the New York state department of transportation. The New
26 York state department of transportation may recommend changes or amend-
27 ments to the TLC as a condition of its approval and must approve or
28 reject the disabled accessibility plan within sixty days of submission
29 by the TLC. The city of New York, acting through the TLC, and the New
30 York state department of transportation are hereby authorized and
31 empowered to take such actions as are necessary and desirable to imple-
32 ment the provisions of this section, subject only to the procedures and
33 limitations set forth in this section, and shall not be required to
34 engage in any review provided for by any provision of law or make or
35 obtain any determination not expressly required by this act.

36 (d) The TLC shall not be permitted to issue more than four hundred of
37 the taxicab licenses authorized to be issued pursuant to this act until
38 this plan is approved by the New York state department of transporta-
39 tion. Upon such approval by such department, the issuance by the TLC of
40 more than four hundred taxicab licenses pursuant to this act shall not
41 be affected by the pendency, the final determination or other outcome of
42 any action or proceeding to which the New York state department of
43 transportation or its commissioner is a party that seeks to challenge or
44 invalidate the approved disabled accessibility plan or any portion ther-
45 eof.

46 S 11. Notwithstanding any of the foregoing it shall remain the exclu-
47 sive right of existing and future taxicabs licensed by the TLC as a
48 taxicab to pick up passengers via street hail in such areas of the city
49 of New York wherein HAIL license holders are prohibited from accepting
50 such passengers. All vehicles licensed by the TLC as taxicabs shall be
51 permitted to pick up passengers via street hail from any location within
52 the city of New York unless the pick-up of passengers is prohibited by
53 law. No driver of any for-hire vehicle shall accept a passenger within
54 the city of New York by means other than pre-arrangement with a base
55 unless said driver is operating either a (i) taxicab licensed by the TLC
56 with a medallion affixed thereto, or (ii) a vehicle with a valid HAIL
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1 license and said passenger is hailing the vehicle from a location where
2 street hails of such vehicles are permitted.

3 S 12. Section 1280 of the tax law is amended by adding seven new
4 subdivisions (o), (p), (q), (r), (s), (t) and (u) to read as follows:

5 (O) "HAIL VEHICLE" MEANS A FOR-HIRE VEHICLE HAVING A TAXIMETER AND A
6 TLC-SANCTIONED TRIP RECORD SYSTEM, LICENSED BY THE TLC TO CARRY PASSEN-
7 GERS FOR HIRE AND AUTHORIZED TO ACCEPT HAILS FROM PROSPECTIVE PASSENGERS
8 IN THE STREETS OF THE CITY, PROVIDED THAT SUCH AUTHORIZATION SHALL
9 PROHIBIT THE PICK-UP OF PASSENGERS BY STREET HAIL AT AIRPORTS AND BY
10 STREET HAIL OR PRE-ARRANGED CALL IN MANHATTAN SOUTH OF EAST NINETY-SIXTH
11 STREET AND SOUTH OF WEST ONE HUNDRED TENTH STREET, OR IN SUCH AREA AS
12 THE TLC SHALL BY RULE PROHIBIT PURSUANT TO THE CHAPTER OF THE LAWS OF
13 TWO THOUSAND TWELVE WHICH ADDED THIS SUBDIVISION.

14 (P) "FOR-HIRE VEHICLE" MEANS A MOTOR VEHICLE CARRYING PASSENGERS FOR
15 HIRE IN THE CITY, WITH A SEATING CAPACITY OF TWENTY PASSENGERS OR LESS,
16 NOT INCLUDING THE DRIVER, OTHER THAN A TAXICAB, COACH, COMMUTER VAN OR
17 AN AUTHORIZED BUS OPERATING PURSUANT TO APPLICABLE PROVISIONS OF LAW.
18 FOR THE PURPOSE OF THIS SUBDIVISION, "SEATING CAPACITY" SHALL INCLUDE
19 ANY PLAIN VIEW LOCATION WHICH IS CAPABLE OF ACCOMMODATING A NORMAL
20 ADULT, IS PART OF AN OVERALL SEAT CONFIGURATION AND DESIGN, AND IS LIKE-
21 LY TO BE USED AS A SEATING POSITION WHILE THE VEHICLE IS IN MOTION.

22 (Q) "HAIL VEHICLE OWNER" MEANS A PERSON LICENSED BY THE TLC TO OWN AND
23 OPERATE, OR OPERATE, A HAIL VEHICLE FOR WHICH THE TLC HAS ISSUED A HAIL
24 LICENSE.

25 (R) "HAIL LICENSE" MEANS A LICENSE ISSUED BY THE TLC TO A PERSON WHO
26 IS THE OWNER OR LICENSED OPERATOR OF A FOR-HIRE VEHICLE THAT AUTHORIZES
27 THAT VEHICLE TO PICK UP PASSENGERS BY STREET HAIL IN THE CITY, PROVIDED
28 THAT SUCH AUTHORIZATION SHALL PROHIBIT THE PICK-UP OF PASSENGERS BY
29 STREET HAIL AT AIRPORTS AND BY STREET HAIL OR PRE-ARRANGED CALL IN
30 MANHATTAN SOUTH OF EAST NINETY-SIXTH STREET AND SOUTH OF WEST ONE
31 HUNDRED TENTH STREET, OR IN SUCH AREA AS THE TLC SHALL BY RULE PROHIBIT
32 PURSUANT TO THE CHAPTER OF THE LAWS OF TWO THOUSAND TWELVE WHICH ADDED
33 THIS SUBDIVISION.

34 (S) "HAIL VEHICLE TRIP" MEANS A HAIL VEHICLE TRIP PROVIDED TO ONE OR
35 MORE PASSENGERS REGARDLESS OF THE NUMBER OF STOPS, THAT ORIGINATED BY
36 STREET HAIL, AND FOR WHICH THE TAXIMETER IS REQUIRED TO BE IN THE
37 RECORDING OR HIRED POSITION DESIGNATING A STREET HAIL TRIP SUBJECT TO
38 THE TAX IMPOSED BY THIS ARTICLE.

39 (T) "HAIL BASE" MEANS A PERSON WHO OR WHICH IS A FOR-HIRE VEHICLE BASE
40 STATION ESTABLISHED PURSUANT TO SECTION 19-511 OF THE ADMINISTRATIVE
41 CODE OF THE CITY OF NEW YORK AND PERMITTED BY THE TLC TO BE AFFILIATED
42 WITH HOLDERS OF HAIL LICENSES.

43 (U) "DISPATCH TRIP" MEANS A TRIP IN A HAIL VEHICLE THAT ORIGINATED BY
44 A CUSTOMER CALLING A HAIL BASE TO REQUEST SERVICE AND THE HAIL BASE
45 DISPATCHING THE CALL TO THE DRIVER OF THE HAIL VEHICLE, AND FOR WHICH
46 THE TAXIMETER IS REQUIRED TO BE IN THE RECORDING OR HIRED POSITION
47 DESIGNATING SUCH A TRIP.

48 S 13. Subdivisions (g), (h) and (m) of section 1280 of the tax law,
49 subdivision (g) as added by section 1 of part E of chapter 25 of the
50 laws of 2009 and subdivision (h) as amended and subdivision (m) as added
51 by section 2 of part V of chapter 57 of the laws of 2010, are amended to
52 read as follows:

53 (g) "Passenger" means an individual seated in a taxicab OR HAIL VEHI-
54 CLE for travel for hire to a given destination.

55 (h) "Taximeter" means an instrument or device approved by the TLC by
56 which the charge to a passenger for hire of a licensed taxicab FOR A
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1 TAXICAB TRIP OR OF A HAIL VEHICLE FOR A HAIL VEHICLE TRIP is automat-
2 ically calculated and on which such charge is plainly indicated. THE
3 TAXIMETER OF A HAIL VEHICLE MAY ALSO BE USED TO RECORD INFORMATION OF A
4 DISPATCH TRIP.

5 (m) "Trip record," also known as a trip sheet or trip log, means the
6 written, computerized, automated or electronic accounting of a taxicab
7 [ride] TRIP, HAIL VEHICLE TRIP, OR DISPATCH TRIP. The trip data to be
8 transmitted or recorded shall include the taxicab license number (medal-
9 lion number) OR HAIL VEHICLE LICENSE NUMBER, ANY LICENSED OPERATOR'S TLC
10 LICENSE NUMBER, AND HAIL BASE PERMIT NUMBER; the taxicab driver's
11 license number OR HAIL VEHICLE DRIVER'S LICENSE NUMBER; the location of
12 trip initiation; the time of trip initiation; the number of passengers;
13 the location of trip termination; the time of trip termination; the
14 itemized metered fare for the trip (tolls, surcharge, and tip if paid by
15 credit or debit card); the distance of the trip, the trip number, the
16 method of payment, the total number of passengers, as well as such other
17 information as may be required by the TLC.

18 S 14. Section 1281 of the tax law, as amended by section 3 of part V
19 of chapter 57 of the laws of 2010, is amended to read as follows:

20 S 1281. Imposition of tax. In addition to any other tax imposed by
21 this chapter or other law, there is hereby imposed on every taxicab
22 owner a tax of fifty cents per taxicab trip AND ON EVERY HAIL BASE A TAX
23 OF FIFTY CENTS PER HAIL VEHICLE TRIP PROVIDED BY EVERY HAIL VEHICLE
24 AFFILIATED WITH THE BASE, on every trip that originates in the city and
25 terminates anywhere within the territorial boundaries of the MCTD.

26 S 15. Section 1282 of the tax law, as amended by section 4 of part V
27 of chapter 57 of the laws of 2010, is amended to read as follows:

28 S 1282. Presumption of taxability. For the purpose of the proper
29 administration of this article and to prevent evasion of the tax imposed
30 by this article, it shall be presumed that every taxicab trip AND EVERY
31 HAIL VEHICLE TRIP that originates in the city is subject to the tax
32 imposed by this article. This presumption shall prevail until the
33 contrary is proven, and the burden of proving the contrary shall be on
34 the person liable for tax.

35 S 16. Section 1283 of the tax law, as amended by section 5 of part V
36 of chapter 57 of the laws of 2010, is amended to read as follows:

37 S 1283. Liability for tax; special provisions. Notwithstanding any
38 provision of law to the contrary: (a) The taxicab owner OR HAIL BASE, AS
39 THE CASE MAY BE, shall be liable for the tax imposed by this article.

40 (B) If the TAXICAB owner has designated an agent, then the agent shall
41 be jointly liable with the TAXICAB owner for the tax on trips occurring
42 during the period that such designation is in effect. Even if the TLC
43 has specified that the TAXICAB owner's agent cannot operate as an agent,
44 that agent shall be jointly liable with the TAXICAB owner if the agent
45 has acted for the TAXICAB owner. During the period that [an] A TAXICAB
46 owner's designation of an agent is in effect, the agent shall file the
47 returns required by this article and pay any tax due with such return,
48 but the TAXICAB owner shall not be relieved of liability for tax, penal-
49 ty or interest due under this article, or for the filing of returns
50 required to be filed, unless the agent has timely filed accurate returns
51 and timely paid the tax required to be paid under this article. If [an]
52 A TAXICAB owner has designated an agent, then the agent must perform any
53 act this article requires [an] THE TAXICAB owner to perform, but the
54 failure of such agent to perform any such act shall not relieve the
55 TAXICAB owner from the obligation to perform such act or from any
56 liability that may arise from failure to perform the act.

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1 [(b)] (C) (1) Although the tax is imposed on the taxicab owner OR THE
2 HAIL BASE, the city or the TLC shall adopt or amend ordinances or regu-
3 lations to ensure that the economic incidence of the tax is passed
4 through to passengers, such as by increasing taxicab OR HAIL VEHICLE
5 trip fares. The passing along of such economic incidence may not be
6 construed by any court or administrative body as imposing the tax on any
7 person other than the taxicab owner OR THE HAIL BASE. The city or the
8 TLC must adjust trip fares to include therein the pass-through of the
9 economic incidence of the tax imposed by this article, as the rate of
10 such tax may from time to time change, and must timely require that any
11 taximeter in a taxicab OR HAIL VEHICLE used to provide trips that origi-
12 nate in the city be adjusted to include the pass-through.

13 (2) A taxicab owner OR A HAIL BASE OR HAIL VEHICLE OWNER in such city
14 must timely adjust the taximeter in any of such person's taxicabs OR
15 HAIL VEHICLES so that it reflects such pass-through as such pass-through
16 amount may from time to time change.

17 (3) Neither the failure of such city or the TLC to adjust fares nor
18 the failure of a taxicab owner, HAIL BASE, HAIL VEHICLE OWNER, or other
19 person to adjust a taximeter will relieve any person liable for the tax
20 imposed by this article from the obligation to pay such tax timely, at
21 the correct rate.

22 S 17. Section 1283 of the tax law, as amended by section sixteen of
23 this act, is amended by adding a new subdivision (d) to read as follows:

24 (D) NOTHING IN THIS ARTICLE SHALL BE CONSTRUED AS LIMITING THE IMPOSI-
25 TION OF ANY TAX IMPOSED BY ARTICLE TWENTY-EIGHT OF THIS CHAPTER ON
26 TRANSPORTATION SERVICE PROVIDED BY A HAIL BASE, HAIL VEHICLE, OR OWNER
27 OR OPERATOR OF A HAIL VEHICLE. NOR SHALL ANYTHING IN ARTICLE
28 TWENTY-EIGHT OF THIS CHAPTER BE CONSTRUED AS LIMITING THE IMPOSITION OF
29 ANY TAX IMPOSED BY THIS ARTICLE ON A HAIL VEHICLE TRIP OR AS LIMITING
30 THE OBLIGATION ON A HAIL BASE TO PAY SUCH TAX.

31 S 18. Subdivision (a) of section 1286 of the tax law, as amended by
32 section 8 of part V of chapter 57 of the laws of 2010, is amended to
33 read as follows:

34 (a) Every person liable for any tax imposed by this article shall
35 keep:

36 (1) records of every taxicab OR HAIL VEHICLE trip originating in the
37 city and of all amounts paid, charged or due thereon and of the tax
38 payable thereon, in such form as the commissioner may require;

39 (2) a true and complete copy of every contract, agreement, or arrange-
40 ment concerning the lease, rental, or license to use a taxicab for which
41 the person is required to remit the tax on trips imposed by this article
42 on such person;

43 (3) a true and complete copy of every contract, agreement, or arrange-
44 ment concerning the appointment of an agent;

45 (4) A TRUE AND COMPLETE COPY OF EVERY CONTRACT, AGREEMENT, OR ARRANGE-
46 MENT CONCERNING THE AFFILIATION OF A HAIL VEHICLE OR OF A HAIL VEHICLE
47 OWNER OR DRIVER WITH A HAIL BASE;

48 (5) true and complete copies of any records required to be kept by the

49 TLC; and
50 [(5)] (6) such other records and information as the commissioner may
51 require to perform his or her duties under this article.
52 S 19. Subdivision (b) of section 1286 of the tax law is relettered
53 subdivision (c) and a new subdivision (b) is added to read as follows:
54 (B) EVERY PERSON THAT HAS CONTRACTED WITH THE CITY OR TLC TO PROVIDE
55 SERVICES TO THE CITY, TO THE TLC, OR TO PERSONS LIABLE FOR TAX UNDER
56 THIS ARTICLE RELATING TO TAXIMETERS, TO ADMINISTERING TAXIMETERS OR TO
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1 INFORMATION OBTAINED FROM TAXIMETERS AND EVERY PERSON THAT THE TLC HAS
2 AUTHORIZED TO OBTAIN OR POSSESS INFORMATION GENERATED BY TAXIMETERS
3 SHALL KEEP TRUE AND COMPLETE COPIES OF ALL METER INFORMATION.

4 S 20. Subdivision (b) of section 1287 of the tax law, as amended by
5 section 9 of part V of chapter 57 of the laws of 2010, is amended to
6 read as follows:

7 (b) Notwithstanding the provisions of subdivision (a) of this section,
8 the commissioner may, in his or her discretion, permit the proper offi-
9 cer of the city or the duly authorized representative of such officer,
10 to inspect any return filed under this article, or may furnish to such
11 officer or such officer's authorized representative an abstract of any
12 such return or supply such person with information concerning an item
13 contained in any such return, or disclosed by any investigation of tax
14 liability under this article; but such permission shall be granted or
15 such information furnished only if the city or the TLC shall have
16 furnished the commissioner with all information requested by the commis-
17 sioner pursuant to this article and shall have permitted the commission-
18 er or the commissioner's authorized representative to make any
19 inspection of any records or reports concerning taxicabs, taxicab
20 owners, [and] agents, HAIL VEHICLES, HAIL VEHICLE OWNERS, AND HAIL BASES
21 filed with or possessed by such city or the TLC which the commissioner
22 may have requested from such city or the TLC. Provided, further, that
23 the commissioner may disclose to the city or the TLC whether or not a
24 person liable for the tax imposed by this article has paid all of the
25 tax due under this article as of any given date.

26 S 21. Section 1289 of the tax law, as amended by section 10 of part V
27 of chapter 57 of the laws of 2010, is amended to read as follows:

28 S 1289. Cooperation by city. The city and the TLC shall cooperate with
29 and assist the commissioner to effect the purposes of this article and
30 the commissioner's responsibilities under this article. Such cooperation
31 shall include THE CITY OR TLC OBTAINING, furnishing [the], AND TIMELY
32 UPDATING CURRENT, COMPLETE AND ACCURATE names, addresses and all other
33 information concerning every (1) taxicab owner, operator, and driver of
34 taxicabs in the city, [and concerning every] (2) agent and vehicle
35 owner, AND (3) HAIL BASE, HAIL VEHICLE OWNER, HAIL VEHICLE, AND DRIVER
36 OF A HAIL VEHICLE, and the trip records and other records of any of
37 them, in the city's possession or in the possession of any of its agen-
38 cies [or], instrumentalities, AGENTS, CONTRACTORS, OR ANY OTHER PERSON
39 THE TLC HAS AUTHORIZED OR REQUIRED TO OBTAIN OR POSSESS SUCH RECORDS OR
40 INFORMATION, together with any other information the commissioner
41 requests, all IN A FORMAT PRESCRIBED BY, AND without cost to, the
42 commissioner. THE TLC SHALL ALSO FURNISH, OR CAUSE TO BE FURNISHED, IN A
43 FORMAT PRESCRIBED BY THE COMMISSIONER, ANY RECORDS OR INFORMATION IN THE
44 POSSESSION OF THE TLC, ANY AGENT OR CONTRACTOR OF THE CITY OR THE TLC,
45 OR ANY OTHER PERSON THE TLC HAS AUTHORIZED OR REQUIRED TO OBTAIN OR
46 POSSESS SUCH RECORDS OR INFORMATION, CONCERNING THE PERSONS LIABLE FOR
47 THE TAX IMPOSED BY THIS ARTICLE, INCLUDING, AMONG OTHER THINGS, DETAILED
48 TRIP RECORD INFORMATION. SUCH COOPERATION SHALL ALSO INCLUDE THE TLC
49 ASSIGNING IDENTIFYING NUMBERS AND OTHER IDENTIFYING INDICIA TO HAIL
50 BASES, HAIL VEHICLE OWNERS, HAIL VEHICLES, AND DRIVERS OF HAIL VEHICLES
51 IN A FORMAT PRESCRIBED BY THE COMMISSIONER, SO AS TO FACILITATE FILING
52 RETURNS, PAYING TAX, AND PERFORMING OTHER TASKS REQUIRED TO ADMINISTER
53 THE TAX IMPOSED BY THIS ARTICLE.

54 S 22. Section 1115 of the tax law is amended by adding a new subdivi-
55 sion (hh) to read as follows:
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1 (HH) RECEIPTS FROM THE SALE OF TRANSPORTATION SERVICE CONSISTING OF A
2 HAIL VEHICLE TRIP, AS THE TERM "HAIL VEHICLE TRIP" IS DEFINED IN ARTICLE
3 TWENTY-NINE-A OF THIS CHAPTER, SHALL BE EXEMPT FROM THE TAX IMPOSED BY
4 PARAGRAPH TEN OF SUBDIVISION (C) OF SECTION ELEVEN HUNDRED FIVE OF THIS
5 ARTICLE, IF SUCH TRIP ORIGINATES IN A CITY OF A MILLION OR MORE AND
6 TERMINATES ANYWHERE WITHIN THE TERRITORIAL BOUNDARIES OF THE METROPOL-
7 ITAN COMMUTER TRANSPORTATION DISTRICT AND IS SUBJECT TO THE TAX ON HAIL
8 VEHICLE TRIPS IMPOSED BY SUCH ARTICLE TWENTY-NINE-A.

9 S 23. Enforcement of penalties and collection of fees. Notwithstand-
10 ing the provisions of any other law to the contrary, the New York state
11 police may enforce any laws, rules or regulations related to vehicles
12 with HAIL licenses and the Port Authority police department may enforce
13 any laws, rules or regulations related to vehicles with HAIL licenses at
14 facilities owned or leased by the Port Authority of New York and New

15 Jersey. The commission or tribunal that adjudicates liability for a
16 violation relating to HAIL vehicles, for-hire vehicles and vehicles that
17 operate as a vehicle licensed by the New York City taxi and limousine
18 commission shall pay the money owed and collected to the entity that
19 issued the summons for the violation.

20 S 24. Subdivision 4 of section 1220-b of the vehicle and traffic law,
21 as amended by chapter 481 of the laws of 2009, is amended to read as
22 follows:

23 4. Any person who engages in the unlawful solicitation of ground
24 transportation services at an airport shall be guilty of a class B
25 misdemeanor punishable by a fine of not less than [five hundred] SEVEN
26 HUNDRED FIFTY dollars nor more than one thousand [two] FIVE hundred
27 [fifty] dollars, or by imprisonment of not more than ninety days or by
28 both such fine and imprisonment. Notwithstanding any contrary provision
29 of law, any charge alleging a violation of this section shall be return-
30 able before a court having jurisdiction over misdemeanors.

31 S 25. Section 19-506 of the administrative code of the city of New
32 York is amended by adding two new subdivisions k and l to read as
33 follows:

34 K. NO DRIVER OF ANY VEHICLE WITH A VALID HAIL LICENSE SHALL ACCEPT A
35 PASSENGER BY STREET HAIL WITHIN THE CITY OF NEW YORK FROM A LOCATION
36 WHERE STREET HAILS BY SUCH VEHICLES ARE NOT PERMITTED.

37 (I) A VIOLATION OF THIS SUBDIVISION SHALL BE PUNISHABLE BY A FINE OF
38 FIVE HUNDRED DOLLARS FOR THE FIRST VIOLATION. A VIOLATION OF THIS SUBDI-
39 VISION SHALL BE PUNISHABLE BY A FINE OF SEVEN HUNDRED FIFTY DOLLARS WHEN
40 A DRIVER HAS BEEN CONVICTED OF A VIOLATION OF THIS SUBDIVISION WITHIN
41 THE IMMEDIATELY PRECEDING TWENTY-FOUR MONTHS. A VIOLATION OF THIS SUBDI-
42 VISION SHALL RESULT IN REVOCATION OF THE DRIVER'S LICENSE ISSUED PURSU-
43 ANT TO PARAGRAPHS (I) AND (III) OF SUBDIVISION A OF SECTION 19-505 OF
44 THIS CHAPTER WHEN SUCH VIOLATION IS COMMITTED BY A DRIVER WHO HAS PREVI-
45 OUSLY BEEN CONVICTED OF TWO VIOLATIONS OF THIS SECTION WITHIN THE IMME-
46 DIATELY PRECEDING ONE HUNDRED TWENTY MONTHS.

47 (II) A FINDING THAT A DRIVER HAS COMMITTED A VIOLATION OF THIS SUBDI-
48 VISION SHALL BE EVIDENCE THAT THE OWNER OR OPERATOR HOLDING THE HAIL
49 LICENSE WITH RESPECT TO THE VEHICLE IN WHICH SUCH VIOLATION WAS COMMIT-
50 TED FAILED TO MAKE A REASONABLE GOOD FAITH EFFORT TO DETER THE COMMIS-
51 SION OF SUCH VIOLATION. A DRIVER'S THIRD CONVICTION OF THIS SUBDIVISION
52 WITHIN ONE HUNDRED TWENTY MONTHS SHALL RESULT IN REVOCATION OF A HAIL
53 LICENSE IF EACH SUCH VIOLATION OCCURRED IN A VEHICLE SUBJECT TO A HAIL
54 LICENSE HELD BY SUCH OWNER OR OPERATOR OF ONE OR MORE OF SUCH HAIL
55 LICENSES. THE NEW YORK CITY TAXI AND LIMOUSINE COMMISSION OR SUCCESSOR
56 AGENCY SHALL ADVISE SUCH OWNER OR OPERATOR HOLDING THE HAIL LICENSE OF
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1 HIS OR HER POTENTIAL LIABILITY PURSUANT TO THIS SECTION UPON A FINDING
2 THAT A VIOLATION OF PARAGRAPH (I) OF THIS SUBDIVISION WAS COMMITTED IN A
3 VEHICLE WITH A VALID HAIL LICENSE.

4 L. A PERSON IS GUILTY OF UNLAWFUL FLEEING A NEW YORK CITY TAXI AND
5 LIMOUSINE ENFORCEMENT OFFICER OR POLICE OFFICER WHEN, KNOWING THAT HE OR
6 SHE HAS BEEN DIRECTED TO REMAIN STOPPED BY A NEW YORK CITY TAXI AND
7 LIMOUSINE ENFORCEMENT OFFICER OR POLICE OFFICER, THE DRIVER OF A VEHICLE
8 OPERATING PURSUANT TO A HAIL LICENSE WHO IS STOPPED IN A ZONE WHERE HE
9 OR SHE IS NOT PERMITTED TO PICK UP STREET HAILS THEREAFTER ATTEMPTS TO
10 FLEE SUCH OFFICER BY SETTING THE VEHICLE IN MOTION AND EITHER TRAVELS
11 OVER THREE HUNDRED FEET WITHOUT STOPPING OR ENGAGES IN CONDUCT CONSTI-
12 TUTING RECKLESS DRIVING AS DEFINED IN SECTION TWELVE HUNDRED TWELVE OF
13 THE VEHICLE AND TRAFFIC LAW. UNLAWFUL FLEEING A NEW YORK CITY TAXI AND
14 LIMOUSINE ENFORCEMENT OFFICER OR POLICE OFFICER IS A MISDEMEANOR PUNISH-
15 ABLE BY A FINE OF NOT LESS THAN SEVEN HUNDRED FIFTY DOLLARS NOR MORE
16 THAN ONE THOUSAND DOLLARS, OR BY IMPRISONMENT OF NOT MORE THAN NINETY
17 DAYS OR BY BOTH SUCH FINE AND IMPRISONMENT. NOTWITHSTANDING ANY CONTRARY
18 PROVISION OF LAW, ANY CHARGE ALLEGING A VIOLATION OF THIS SUBDIVISION
19 SHALL BE RETURNABLE BEFORE A COURT HAVING JURISDICTION OVER MISDEMEA-
20 NORS.

21 S 26. Paragraphs 1, 2 and 4 of subdivision h of section 19-506 of the
22 administrative code of the city of New York, as added by local law
23 number 90 of the city of New York for the year 1989 and such subdivision
24 as relettered by local law number 13 of the city of New York for the
25 year 1992, is amended to read as follows:

26 (1) Any officer or employee of the commission designated by the chair-
27 person of the commission and any police officer may seize any vehicle
28 which he or she has probable cause to believe is operated or offered to
29 be operated without an appropriate vehicle license for such operation in
30 violation of subdivision b [or], c OR K of this section. Therefore,
31 either the commission or an administrative tribunal of the commission at
32 a proceeding commenced in accordance with subdivision e of this section,
33 or the criminal court, as provided in this section, shall determine
34 whether a vehicle seized pursuant to this subdivision was operated or
35 offered to be operated in violation of either such subdivision. The
36 commission shall have the power to promulgate regulations concerning the
37 seizure and release of vehicles and may provide in such regulations for

38 reasonable fees for the removal and storage of such vehicles. Unless the
39 charge of violating subdivision b [or], c OR K of this section is
40 dismissed, no vehicle seized pursuant to this subdivision shall be
41 released until all fees for removal and storage and the applicable fine
42 or civil penalty have been paid or a bond has been posted in a form and
43 amount satisfactory to the commission, except as is otherwise provided
44 for vehicles subject to forfeiture pursuant to paragraph two of this
45 subdivision.

46 (2) In addition to any other penalties provided in this section, if
47 the owner is convicted in the criminal court of, or found liable in
48 accordance with subdivision e of this section for, a violation of either
49 subdivision b [or], c OR K of this section three or more times, and all
50 of such violations were committed on or after the effective date of this
51 section and within a thirty-six month period, the interest of such owner
52 in any vehicle used in the commission of any such third or subsequent
53 violation shall be subject to forfeiture upon notice and judicial deter-
54 mination. Notice of the institution of the forfeiture proceeding shall
55 be in accordance with the provisions of the civil practice law and
56 rules.

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1 (4) Notwithstanding the provisions of paragraph three of this subdivi-
2 sion, establishment of a right of ownership shall not entitle a person
3 to delivery of a vehicle if the city establishes in the forfeiture
4 proceeding or in a separate administrative adjudication of a claim
5 asserted pursuant to subparagraph [C] (C) of paragraph three of this
6 subdivision that the violations of subdivision b [or], c OR K of this
7 section upon which the forfeiture is predicated were expressly or
8 impliedly permitted by such person. The commission OR SUCCESSOR AGENCY
9 shall promulgate rules and regulations setting forth the procedure for
10 such an administrative adjudication, which shall include provision for a
11 hearing.

12 S 27. Section 19-512.1 of the administrative code of the city of New
13 York, as added by local law number 20 of the city of New York for the
14 year 1999 and subdivision a as amended by local law number 16 of the
15 city of New York for the year 2008, is amended to read as follows:

16 S 19-512.1 Revocation of taxicab, FOR-HIRE OR HAIL LICENSE OR
17 licenses. a. The commission OR SUCCESSOR AGENCY may, for good cause
18 shown relating to a direct and substantial threat to the public health
19 or safety and prior to giving notice and an opportunity for a hearing,
20 suspend a taxicab [or], for-hire vehicle license OR A HAIL LICENSE
21 issued pursuant to this chapter and, after notice and an opportunity for
22 a hearing, suspend or revoke such license. The commission OR SUCCESSOR
23 AGENCY may also, without having suspended a taxicab [or], for-hire vehi-
24 cle license OR A HAIL LICENSE, issue a determination to seek suspension
25 or revocation of such license and after notice and an opportunity for a
26 hearing, suspend or revoke such license. Notice of such suspension or
27 of a determination by the commission OR SUCCESSOR AGENCY to seek suspen-
28 sion or revocation of a taxicab [or], for-hire vehicle license OR A HAIL
29 LICENSE shall be served on the licensee by personal delivery or by
30 certified and regular mail within five calendar days of the pre-hearing
31 suspension or of such determination. The licensee shall have an opportu-
32 nity to request a hearing before an administrative tribunal of competent
33 jurisdiction within ten calendar days after receipt of any such notifi-
34 cation. Upon request such hearing shall be scheduled within ten calendar
35 days, unless the commission OR SUCCESSOR AGENCY or other administrative
36 tribunal of competent jurisdiction determines that such hearing would be
37 prejudicial to an ongoing criminal or civil investigation. If the tenth
38 day falls on a Saturday, Sunday or holiday, the hearing may be held on
39 the next business day. A decision shall be made with respect to any such
40 proceeding within sixty calendar days after the close of the hearing. In
41 the event such decision is not made within that time period, the license
42 or medallion which is the subject of the proceeding shall be returned by
43 the commission OR SUCCESSOR AGENCY to the licensee and deemed to be in
44 full force and effect until such determination is made, unless the
45 commission OR SUCCESSOR AGENCY or other administrative tribunal of
46 competent jurisdiction determines that the issuance of such determi-
47 nation would be prejudicial to an ongoing criminal or civil investi-
48 gation.

49 b. It shall be an affirmative defense that the holder of the taxicab
50 [or], for-hire vehicle license OR A HAIL LICENSE or the owner of the
51 taxicab [or], for-hire vehicle OR HAIL VEHICLE has (1) exercised due
52 diligence in the inspection, management and/or operation of the taxicab
53 [or], for-hire vehicle OR HAIL VEHICLE and (2) did not know or have
54 reason to know of the acts of any other person with respect to that
55 taxicab [or] LICENSE, for-hire vehicle license OR A HAIL LICENSE or
56 taxicab [or], for-hire vehicle OR HAIL VEHICLE upon which a suspension,
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1 proposed suspension or proposed revocation is based. With respect to
2 any violation arising from taximeter tampering, an owner's due diligence

3 shall include, but not be limited to, those actions set forth in subdivi-
4 sion h of section 19-507.1 of this chapter. Any pre-hearing suspen-
5 sion period shall be counted towards any suspension period made in any
6 final determination.

7 S 28. Subdivision a of section 19-507 of the administrative code of
8 the city of New York, as amended by local law number 88 of the city of
9 New York for the year 1989, is amended to read as follows:

10 a. The commission OR SUCCESSOR AGENCY shall fine any driver, or
11 suspend or revoke the driver's license of any driver, as provided in
12 subdivision b of this section, who shall have been found in violation of
13 any of the following:

14 1. No driver of a taxicab shall seek to ascertain, without justifiable
15 grounds, the destination of a passenger before such passenger shall be
16 seated in the vehicle.

17 2. No driver of a taxicab shall refuse, without justifiable grounds,
18 to take any passenger or prospective passenger to any destination within
19 the city.

20 3. No driver of a vehicle the fares of which are set by the commission
21 OR SUCCESSOR AGENCY shall charge or attempt to charge a fare above the
22 fare set by the commission OR SUCCESSOR AGENCY.

23 4. No driver of a for-hire vehicle, OTHER THAN A DRIVER OPERATING A
24 FOR-HIRE VEHICLE WITH A VALID HAIL LICENSE, shall accept passengers
25 unless the passengers have engaged the use of the for-hire vehicle on
26 the basis of telephone contract or prearrangement.

27 S 29. Subdivision a of section 19-516 of the administrative code of
28 the city of New York, as amended by local law number 115 of the city of
29 New York for the year 1993, is amended to read as follows:

30 a. For-hire vehicles THAT DO NOT POSSESS A VALID HAIL LICENSE may
31 accept passengers only on the basis of telephone contract or prearrange-
32 ment. The commission OR SUCCESSOR AGENCY may establish such disciplinary
33 actions as it deems appropriate for failure to abide by the provisions
34 of this chapter.

35 S 30. If any of the provisions of chapter 602 of the laws of 2011
36 relating to livery permits in the city of New York shall conflict with
37 provisions of this act, the provisions set forth in this act shall
38 control.

39 S 31. This act shall take effect immediately; provided, however, that
40 sections two and three of this act shall take effect on the same date
41 and in the same manner as chapter 602 of the laws of 2011 relating to
42 livery permits in the city of New York, took effect, and provided
43 further that sections twelve through twenty-two of this act shall take
44 effect February 15, 2012, but only if the commissioner of taxation and
45 finance has received written notice by January 15, 2012, sent by certi-
46 fied or registered mail to the office of the commissioner of taxation
47 and finance in Albany, from the chair/commissioner or counsel of the New
48 York city taxi and limousine commission (TLC) or successor agency that,
49 effective February 15, 2012, the TLC has authorized for-hire vehicles to
50 operate as HAIL vehicles to accept hails in the street, or, if the
51 commissioner of taxation and finance has not received such notice,
52 mailed in accordance with this section, from the TLC or successor agency
53 by January 15, 2012, then sections twelve through twenty-two of this act
54 shall take effect on the first day of the first month next commencing at
55 least 20 days after the commissioner of taxation and finance has
56 received written notice, sent by certified or registered mail to the
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1 office of the commissioner of taxation and finance in Albany, from the
2 chair/commissioner or counsel of the TLC or successor agency that the
3 TLC or successor agency has authorized for-hire vehicles to operate as
4 HAIL vehicles to accept hails in the street; provided that the commis-
5 sioner of taxation and finance shall notify the legislative bill draft-
6 ing commission upon receipt of written notification from the
7 chair/commissioner or counsel of the TLC or successor agency that the
8 TLC or successor agency has authorized for-hire vehicles permitted as
9 HAIL vehicles to accept hails on the street in order that the legisla-
10 tive bill drafting commission may maintain an accurate and timely data
11 base of the official text of the laws of the state of New York in furth-
12 erance of effecting the provisions of section 44 of the legislative law
13 and section 70-b of the public officers law; and sections twelve through
14 twenty-two of this act shall apply to HAIL vehicle trips originating on
15 or after such effective date of such sections twelve through twenty-two.