

THE PHILADELPHIA PARKING AUTHORITY

In Re: Proposed Rulemaking Order :
Philadelphia Taxicab and :
Limousine Regulations : Docket No. 126-4
:
:

PROPOSED RULEMAKING ORDER

BY THE AUTHORITY:

In accordance with of the act of July 16, 2004, (P.L. 758, No. 94), *as amended*, 53 Pa.C.S. §§5701 *et seq.*, (the “act”),¹ the Authority formally commences its rulemaking process to promulgate regulations to address recent statutory changes and to address minor errors or incomplete provisions in its taxicab and limousine regulations. The Authority seeks comments from all interested parties on these proposed regulations, which are found at Annex A to this Order.

Pursuant to Section 23 of the Act, the Authority initiated regulatory oversight of taxicab and limousine service providers in Philadelphia on April 10, 2005. The Authority’s taxicab and limousine regulations are available at 52 Pa. Code Part II.

The Legislature enacted the act of July 5, 2012, (P.L. 1022, No. 119) (“Act 119”) amending several provisions of the Authority’s taxicab and limousine enabling legislation. One change limited the scope of the definition of “limousine” in 53 Pa.C.S. § 5701 in such a manner as to negate the need for the Authority’s regulation of a class of limousines identified as “large vehicles”. The proposed rulemaking will amend the regulations to remove references to those carriers. Several other clarifying amendments to the regulations are also included in this proposed rulemaking, as further explained below.

DISCUSSION

Consistent with the foregoing, the following amendments to the Authority’s taxicab and limousine regulations are proposed.

§ 1011.11. Definitions.

We propose that the definition of “partial-rights taxicab” be amended to reference the changes made to one statutory provision of the act amended by Act 119, specifically, section 5711(c)(2.1) (relating to power of Authority to issue certificates of public convenience).

¹ See 53 Pa.C.S. §§ 5722 and 5742.

§ 1011.14. Voluntary suspension of certificate.

We propose that subsection (a) be amended to delete reference to a subsection “(e)”. There is no subsection (e) in this section. We also propose adding a new subsection (d), which will require the surrender of the medallion or TLD inspection sticker, or both, authorizing each subject vehicle to provide Philadelphia taxicab service as a condition of placing the vehicle or certificate voluntarily out of service.

§ 1015.2. Certificate required.

We propose adding two new subsections to this partial-rights taxicab related section. The intent of these provisions is to clarify the rights and limitations of partial-rights taxicabs in consideration of complaints levied by medallion taxicab certificate holders and apparent confusion on the part of some partial-rights taxicab certificate holders.

As proposed, the new subsection (c) will clarify the fact that partial-rights taxicabs are not permitted to provide taxicab service between two points in Philadelphia, when those points are both outside of the geographical boundaries established in the Authority approved tariffs for each of the six partial-rights taxicab certificates. The proposed subsection (d) will clarify that partial-rights taxicabs are not permitted to accept a street hail for taxicab service in Philadelphia, except within the geographical boundaries of the given partial rights taxicab certificate holder’s Authority approved tariff. We do not believe that either of these provisions are controversial, but instead are consistent with the long established limitations of partial-rights taxicabs in Philadelphia. This regulation will clarify those service issues.

§ 1017.14. Taxicab numbering.

We propose that subsection (c) of this section be amended to delete reference to the old Pennsylvania Public Utility Commission (“PUC”) certificate of public convenience numbers. Those numbers were associated with each given partial-rights taxicab Philadelphia service area prior to the transfer of regulatory authority from the PUC to the Authority pursuant to the act. Those PUC certificate numbers were replaced with the Authority certificate numbers issued after the regulatory transfer date in April 2005. The PUC does not regulate taxicab service within Philadelphia, including taxicab service by partial-rights taxicabs.

The failure to include the Authority certificate of public convenience numbers issued to each partial-rights taxicab company at the time that section 1017.14 was originally promulgated was an oversight. References to the names of the partial-rights taxicab certificate holders has been deleted in response to comments of certain of those certificate holders that their publication through a regulation could unnecessarily impede the ability to transfer those certificates, a process regulated by the Authority as provided in section 5711(c)(5) of the act.

§ 1021.4. Ineligible persons for taxicab driver certificate.

We propose that this section be amended by adding paragraphs (7) and (8). Paragraph (7) will clarify that a driver applicant may experience a loss of their driver’s license privileges in the one

year period preceding the application or renewal date; yet remain eligible to be issued or renew the Authority driver's certificate. The need to have a driving history of at least one year as currently provided in paragraph (6) will continue; however, to the extent the applicant's driver's license has been valid for the six months preceding the application date a suspension or other loss of driving privileges will not be an automatic bar to the application or renewal process.

We also propose that a conviction for driving under the influence of alcohol or controlled substance be added to this list of prohibitions. These convictions are not necessarily felonies and often do not appear on a driver history report, creating a potential loophole in the regulations.

§ 1021.11. Driver requirements.

We propose a new paragraph (5) be added to subsection (d) requiring taxicab drivers to provide the receipt for taxicab service to each fare-paying customer. All taxicabs are required to have receipt issuing capabilities as provided by §§ 1017.24(d) or § 1017.63(a), or both (related to meter activation and display; and receipts). In the past year it has been averred in an enforcement action that while each taxicab must have the ability to issue a receipt there was no regulatory requirement that the driver actually give the receipt to the customer.

§ 1021.14. General taxicab driver reports.

We propose an amendment to paragraph (2) of this subsection to require that a taxicab driver inform the Taxicab and Limousine Division ("TLD") of a change to not only the driver's home address, but also the driver's telephone number. Several taxicab drivers have changed telephone numbers over the past year without advising the TLD. The inability to rapidly communicate with a driver through telephone communication may inure to the detriment of the driver or the effectiveness of the Authority's regulation of taxicabs, or both.

§ 1021.16. Service issues regarding people with disabilities.

We propose that the word "hale" be substituted with the properly spelled "hail" in subsection (b) of this section. The use of the word "hale" was an oversight made during the original promulgation of this section.

§ 1027.5. Agreement of sale.

We propose that the agreements of sale used as a part of the process to transfer certain rights through the Authority be amended to require that the agreement of sale be signed at the same time that the application to transfer rights is filed with the TLD and not before. There are currently many agreements of sale filed with the Authority without a corresponding transfer of rights application. We have found that confusion as to who actually owns the transferable rights, and false claims related to who may use those rights germinate in these scenarios. We believe it to be in the best interests of the parties to the agreement of sale and the public concerned about who is actually using the rights at issue, to impose this modest scheduling requirement.

§ 1051.13. *Voluntary suspension of certificate.*

We propose adding a new subsection (e), which will require the surrender of the TLD inspection sticker authorizing each subject vehicle to provide Philadelphia taxicab service as a condition of placing a vehicle or certificate voluntarily out of service.

Subchapter D. LARGE VEHICLES AND REMOTE CARRIERS

We propose deleting the term “large vehicle” due to inapplicability.

§ 1053.41. *Large vehicles.*

We propose deleting this section as inapplicable because Act 119 removed these large vehicles from the Authority’s jurisdiction. *See* 53 Pa.C.S § 5701 (relating to definitions).

§ 1053.42. *Remote carriers.*

We propose deleting the phrase “regardless of seating capacity” from subsection (a) due to inapplicability. This language was originally included in this subsection to assure that its terms applied to large vehicles, which are no longer subject to Authority regulation.

§ 1053.43. *Certain limousine requirements.*

We propose deleting the reference to large vehicles in subsection (b) of this section due to inapplicability. We also propose deleting subsections (c) and (g) of this section in their entirety due to inapplicability.

§ 1057.4. *Ineligible persons for limousine driver certificate.*

We propose amending this section related to limousine driver eligibility to mirror the changes to the taxicab driver section at § 1021.4, referenced above.

§ 1057.14. *General limousine driver reports.*

We propose amending this section related to limousine driver reporting requirements to mirror the changes to the similar taxicab driver section at § 1021.14, referenced above.

§ 1059.4. *Agreement of sale.*

We propose amending this section related to agreements of sale for limousine rights to mirror the substantially similar section related to the sale of taxicab transferable rights at § 1027.5, referenced above.

CONCLUSION

The Authority, therefore, formally commences its rulemaking process to promulgate these regulations to become part of 52 Pa. Code Part II in a manner consistent with Annex A to this Order. The Authority seeks comments from all interested parties on these proposed regulations, which are found at Annex A to this Order. The Authority hereby advises that all comments submitted in response to this Order will be posted, without redaction of name, address, or other personal information or comment provided, on the website of the Independent Regulatory Review Commission, which may be reached at 717-783-5417.

Accordingly, under sections 13 and 17 of the Act, 53 Pa.C.S. §§ 5722 and 5742; section 5505(d) of the Parking Authorities Act, act of June 19, 2001, (P.L. 287, No. 22), *as amended*, 53 Pa. C.S. §§ 5505(d)(17), (d)(23), (d)(24); sections 201 and 202 of the Act of July 31, 1968, P.L. 769 No. 240, 45 P.S. §§ 1201-1202, and the regulations promulgated thereunder at 1 Pa. Code §§ 7.1, 7.2, and 7.5; section 204(b) of the Commonwealth Attorneys Act, 71 P.S. 732.204(b); section 745.5 of the Regulatory Review Act, 71 P.S. § 745.5 we are considering adopting the proposed regulations set forth in Annex A², attached hereto;

THEREFORE,

IT IS ORDERED:

1. That a proposed rulemaking be opened to consider the regulations set forth in Annex A.
2. That the Executive Director shall submit this proposed rulemaking Order and Annex A to the Office of Attorney General for review as to form and legality.
3. That the Executive Director shall submit this proposed rulemaking Order and Annex A for review and comments to the Independent Regulatory Review Commission and the Legislative Standing Committees.
4. That the Secretary of the Board shall certify this proposed rulemaking Order and Annex A and that the Executive Director shall deposit them with the Legislative Reference Bureau to be published in the *Pennsylvania Bulletin*.
5. That an original and 15 copies of any written comments referencing the docket number of the proposed regulations be submitted within 30 days of publication in the *Pennsylvania Bulletin* to the Philadelphia Parking Authority, Attn: Dennis G. Weldon, General Counsel, 3101 Market Street, 2nd Floor, Philadelphia, PA 19104.

² The Authority does not receive money from the State Treasury and is; therefore, not subject to section 612 of the Administrative Code of 1929, 71 P.S. § 232.

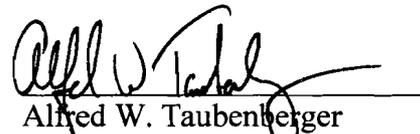
6. That a copy of this proposed rulemaking Order and Annex A shall be served on the City of the First Class Taxicab and Limousine Advisory Committee and a copy shall be posted on the Authority's website at www.philapark.org/tld.

7. That the contact person for this proposed rulemaking is James R. Ney, Director, Taxicab and Limousine Division, (215)-683-9417.

**THE PHILADELPHIA PARKING
AUTHORITY**


Joseph T. Ashdale
Chairman
(SEAL)

Certified:


Alfred W. Taubenberger
Vice-Chairman/Secretary
(SEAL)

ORDER ADOPTED: January 28, 2013
ORDER ENTERED: January 28, 2013

ANNEX A

§ 1011.2. Definitions.

The following words and terms, when used in this subpart, have the following meanings, unless the context clearly indicates otherwise:

* * * * *

Partial-rights taxicab—A taxicab authorized by the Authority to provide common carrier call or demand transportation of persons for compensation on a non-citywide basis, under Chapter 1015 (relating to partial rights taxicabs) and section 5711(c)[(2)](2.1) of the act (relating to power of authority to issue certificates of public convenience) and 5714(d)(2) of the act.

* * * * *

§ 1011.14. Voluntary suspension of certificate.

(a) A certificate holder may apply to place a certificate in a voluntary state of suspension to avoid penalties for violation of § 1011.13[(e)] (relating to interruptions of service).

* * * * *

(g) A period of voluntary suspension may begin only upon surrender to the Authority of each medallion or TLD Inspection Sticker, or both, for each vehicle subject to the voluntary suspension.

§ 1015.2. Certificate required.

* * * * *

(c) A partial-rights taxicab may not provide taxicab service to two points in Philadelphia unless one, or both, of those points is within the geographical boundaries identified in the partial-rights taxicab certificate holder's Authority approved tariff.

(d) A partial-rights taxicab may only accept a street hail for taxicab service at a location within the geographical boundaries identified in the partial-rights taxicab certificate holder's Authority approved tariff.

§ 1017.14. Taxicab numbering.

* * * * *

(c) Partial-rights taxicabs must be identified by a unique sequential number, as follows:

(1) Taxicabs with rights through [Germantown Cab Company (Pennsylvania Public Utility Commission A-00110733)] Certificate No. 1011748-02 shall be numbered "G-1" for the first vehicle, "G-2" for the second vehicle, and continue according to that sequence until each taxicab is issued a unique number.

(2) Taxicabs with rights through [Bucks County Services, Inc. (Pennsylvania Public Utility Commission A-00111913)] Certificate No. 1011752-02 shall be numbered "B-1" for the first vehicle, "B-2" for the second vehicle, and continue according to that sequence until each taxicab is issued a unique number.

(3) Taxicabs with rights through [Concord Limousine, Inc. (Pennsylvania Public Utility Commission A-00113582)] Certificate No. 1016120-05 shall be numbered "CL-1" for the first vehicle, "CL-2" for the second vehicle, and continue according to that sequence until each taxicab is issued a unique number.

(4) Taxicabs with rights through [Concord Coach USA, Inc. (Pennsylvania Public Utility Commission A-00115589)] Certificate No. 1015925-05 shall be numbered "CC-1" for the first vehicle, "CC-2" for the second vehicle, and continue according to that sequence until each taxicab is issued a unique number.

(5) Taxicabs with rights through [Dee Dee Cab, Inc. Company (Pennsylvania Public Utility Commission A-00116499)] Certificate No. 1011761-02 shall be numbered "D-1" for the first vehicle, "D-2" for the second vehicle, and continue according to that sequence until each taxicab is issued a unique number.

(6) Taxicabs with rights through [MCT Transportation, Inc. d/b/a Montco Suburban Taxi (Pennsylvania Public Utility Commission A-00119955)] Certificate No. 1015570-05 shall be numbered "MCT-1" for the first vehicle, "MCT-2" for the second vehicle, and continue according to that sequence until each taxicab is issued a unique number.

§ 1021.4. Ineligible persons for taxicab driver certificate.

In addition to other prohibitions provided in this part, an applicant for a taxicab driver's certificate shall be automatically ineligible under the following circumstances:

* * * * *

(7) The applicant's driver's license was suspended, revoked or otherwise invalidated at any time during the six months immediately preceding the date of application.

(8) The applicant has been convicted of driving under the influence of alcohol or controlled substance as provided in 75 Pa.C.S. § 3802 (relating to driving under influence of alcohol or controlled substance).

§ 1021.11. Driver requirements.

* * * * *

(d) *Gratuities or payment method.*

(5) A taxicab driver shall provide each fare-paying customer with a receipt for the taxicab service required by §§ 1017.24(d) or § 1017.63(a), or both (related to meter activation and display; and receipts).

§ 1021.14. General taxicab driver reports.

A taxicab driver shall make timely written reports to the Authority as required by the act, this part or an order of the Authority, including the following reports which shall be made to the Manager of Administration:

* * * * *

(2) A change of address or telephone number, or both, shall be reported within 15 days.

* * * * *

§ 1021.16. Service issues regarding people with disabilities.

* * * * *

(b) This section may not be interpreted to require or permit a taxicab to provide service in an area outside the rights identified in the taxicab certificate holder's rights. For example, this section does not permit a partial-rights taxicab to stop for a [hale] hail outside of its defined geographical area.

§ 1027.5. Agreement of sale.

* * * * *

(b) An agreement of sale for transferable rights is void by operation of law if not executed by all parties in the presence of the Director or a designee at the time the sale is initiated as provided in § 1027.6 (a)(1) (relating to application for sale of transferable rights).

§ 1051.13. Voluntary suspension of certificate.

* * * * *

(e) A period of voluntary suspension may begin only upon surrender to the Authority of the TLD Inspection Sticker for each vehicle subject to the voluntary suspension.

Subchapter D. [LARGE VEHICLES AND] REMOTE CARRIERS

§ 1053.41. [Large vehicles.

(a) A limousine, regardless of the classification provided by this chapter, having a seating capacity of 16 or more passengers, including the driver, must hold a valid PUC certificate to provide the same or a substantially similar classification of common carrier by motor vehicle service to hold Authority limousine rights.

(b) Limousines with a seating capacity of 16 or more passengers, including the driver, are exempt from this subpart, except for the registration and regulation requirements in § 1053.43 (relating to certain limousine requirements).] Reserved

§ 1053.42. Remote carriers.

(a) A remote carrier[, regardless of seating capacity,]shall adhere to the requirements in § 1053.43 (relating to certain limousine requirements).

* * * * *

§ 1053.43. Certain limousine requirements.

* * * * *

(b) *Certain limousines covered.* This section applies to remote carriers as provided in § 1053.42 (relating to remote carriers) [and large vehicles as provided in § 1053.41(b) (relating to large vehicles). A vehicle that is both a remote carrier and a large vehicle must comply with the regulations related to large vehicles].

(c) *Registration.*

* * * * *

(3) [The registration fee for large vehicles shall be \$15 without consideration of the number of large vehicles used by the certificate holder for Fiscal Year 2011-2012 and, thereafter, as provided in the Authority's fee schedule as provided in § 1001.43 (relating to Authority fee schedule).] Reserved.

* * * * *

[(g) *Large vehicle certificate.* Upon compliance with this section, the Authority will issue the large vehicle registrant a certificate of public convenience to provide service as a large vehicle under this section. The certificate issued under this subsection is not subject to the renewal requirements in this subpart and will be subject to revocation under section 5741.1(c)(1) of the act if the PUC certification required under § 1053.41(a) expires or otherwise becomes invalid.]

§ 1057.4. Ineligible persons for limousine driver certificate.

In addition to other prohibitions provided in this part, an applicant for a limousine driver's certificate shall be automatically ineligible under the following circumstances:

* * * * *

(7) The applicant's driver's license was suspended, revoked or otherwise invalidated at any time during the six months immediately preceding the date of application.

(8) The applicant has been convicted of driving under the influence of alcohol or controlled substance as provided in 75 Pa.C.S. § 3802 (relating to driving under influence of alcohol or controlled substance).

§ 1057.14. General limousine driver reports.

A limousine driver shall make timely written reports to the Manager of Administration as required under the act, this part or an order of the Authority, including the following:

* * * * *

(2) A change of address or telephone number, or both shall be reported within 15 days.

* * * * *

§ 1059.4. Agreement of sale.

* * * * *

(b) An agreement of sale for transferable rights is void by operation of law if not executed by all parties in the presence of the Director or a designee at the time the sale is initiated as provided in § 1059.5 (relating to application for sale of transferable rights).