

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DIVISION OF PUBLIC UTILITIES AND CARRIERS
89 JEFFERSON BOULEVARD
WARWICK, RHODE ISLAND 02888**

IN RE: Rules And Regulations for Licensing :
Operators Transporting Passengers in : Docket No. 06-MC-08
Taxicabs, Limited Public Motor Vehicles :
and Public Motor Vehicles :

REPORT AND ORDER

1. Introduction

On January 31, 2006, the Rhode Island Division of Public Utilities and Carriers' ("Division") published a "Notice Of Rulemaking And Public Hearing" in the Providence Journal, wherein interested persons were invited to submit data, views, or arguments, orally or in writing, and/or attend a public hearing in response to the proposed adoption of new Division "*Rules and Regulations for Licensing Operators Transporting Passengers in Taxicabs, Limited Public Motor Vehicles and Public Motor Vehicles*" ("Operator Rules").¹ The Division's Motor Carrier Section ("Motor Carrier Section") is sponsoring the proposed Operator Rules.

The Motor Carrier Section submitted its proposed Operator Rules to the Administrator of the Division for consideration and public comment. The proposed Operator Rules were thereafter made available to members of the taxicab, limited public motor vehicle, and public motor vehicle industries and to the general public. The Motor Carrier Section also submitted pre-filed

¹ The notice was published in conformance with the requirements of R.I.G.L. §42-35-3.

direct testimony, from its Associate Administrator, Mr. Terrence Mercer, which identified and explained the proposed Operator Rules.

Upon receipt of the proposed Operator Rules, the Administrator appointed the undersigned hearing officer to conduct a rulemaking proceeding in accordance with the requirements and procedures delineated in R.I.G.L. §§42-35-3 and Rule 12(f)(1) of the Division's *Rules of Practice and Procedure*. The Division thereupon established the instant docket and scheduled and conducted two duly noticed public hearings on the Motor Carrier Section's proposed Operator Rules. In keeping with the requirements of R.I.G.L. §42-35-3(a)(4), the Division also concluded that the proposed Operator Rules would not, if adopted by the Division, have a significant adverse economic impact on any small business or on any city or town.

The Division conducted two public hearings on the proposed Operator Rules on February 23, and April 10, 2006. The hearings were conducted in the Division's hearing room, located at 89 Jefferson Boulevard in Warwick, Rhode Island. The following counsel entered an appearance:

For the Motor Carrier Section ² :	William K. Lueker, Esq. Special Asst. Attorney General
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In order to facilitate the Division's discussions and findings relative to the suggested changes articulated by interested persons during this proceeding, the Division has attached a copy of the proposed Motor Carrier Section's Operator Rules to this report and order as "Appendix 1."

² The Motor Carrier Section is also referred to as the "Advocacy Section" in this docket.

2. Summary of Rulemaking Authority

The Division notes that its authority to promulgate rules and regulations governing the operators of taxicabs, limited public motor vehicles and public motor vehicles is derived from the following statutory law:

- R.I.G.L. § 39-14-20, which in pertinent part provides:

No person shall operate a taxicab or limited public motor vehicle upon the highways until the person shall have first obtained a special license from the division of public utilities and carriers under such rules and regulations as the division of public utilities and carriers shall require.

- R.I.G.L. § 39-14.1-8, which in pertinent part provides:

No person shall operate a public motor vehicle upon the highways until the person shall have first obtained a special license from the division of public utilities and carriers under such rules and regulations as the division of public utilities and carriers shall require.

3. Motor Carrier Section's Rationale For the Proposed Operator Rules

Mr. Terrence Mercer, the Motor Carrier Section's Associate Administrator, testified in support of the proposed Operator Rules. He also sponsored and authenticated two exhibits in this docket, specifically, (1) a copy of the proposed Operator Rules;³ and (2) his pre-filed direct testimony.⁴

Mr. Mercer testified that the Motor Carrier Section initiated this rule-making proceeding "to codify many aspects of the Division's dealings" with taxicab ("taxicab"), limited public motor vehicle ("LPMV") and public motor

³ Advocacy Section Exhibit 1.

⁴ Advocacy Section Exhibit 2.

vehicles (“PMV”) drivers.⁵ Mr. Mercer related that the rules generally cover “the licensing procedures for such drivers and the professional conduct of such drivers”.⁶

In describing the proposed Operator Rules, Mr. Mercer testified that Section “A” essentially sets out the statutory authority of the Division regarding the regulation of taxicabs, LPMVs and PMVs. He related that Section A-1 “deals with the licensing of the actual drivers of such vehicles pursuant to R.I.G.L. §§ 39-14-20 and 39-14.1-8, respectively.” Mr. Mercer added that the definitions in Section “B” come straight from the definitions contained in the State’s statutory law.

Mr. Mercer stated that Section “C” sets out the minimum qualifications expected of an applicant. He related that all but one of the requirements “are either spelled out in statute or existing Division rules.” Mr. Mercer stated that “for the most part, nothing in the section is ‘new’ in that all requirements can be found codified elsewhere.”⁷ He described Section C(1)(d) as the “exception”. Mr. Mercer explained this rule requires applicants to “*be able to speak, read, write and understand the English language sufficiently to understand highway traffic signs and signals and communicate with passengers.*” Mr. Mercer testified that the requirement “*obviously does not mean to require academic proficiency in the English language, but rather to insure a sufficient working knowledge as to complete*

⁵ Advocacy Section Exhibit 2, p. 2.

⁶ Id.

⁷ Id., p. 3.

Division paperwork and to understand passenger requests and road signs so as to adequately complete the transportation service.”

Mr. Mercer stated that Section “D” provides details on the licensing process for all operators. He explained that much of these details are already contained in the Division’s existing “*Rules and Regulations Governing the Transportation of Passengers via Taxicabs and Limited Public Motor Vehicles*” (“Cab Rules”). Mr. Mercer noted that the Division has been issuing “Blue Cards” for years, which he described as the type of licensing procedure now being codified in the instant rules.⁸ He related that the licensing process has always included a review of the applicant’s driving abstract and criminal history records. Mr. Mercer emphasized: “*these criteria were not created out of whole cloth. They have been adopted from criteria used by RIDOT to issue licenses to school bus drivers, who also transport passengers.*” Mr. Mercer related that Section D(2) would now comprehensively codify this procedure.⁹

Mr. Mercer next discussed the applicants’ rights in the event of denial. He explained that under Sections D(2)(c) and D(2)(d) an applicant may seek ‘quick redress’ from the Associate Administrator of Motor Carriers from an initial denial; and a further “formal” evidentiary hearing review from a Division hearing officer if an initial denial is subsequently affirmed by the Associate Administrator of Motor Carriers. Mr. Mercer explained that the

⁸ The license in issue has been historically called a “Blue Card” or “State Hackney License” by Division staff and the industry.

⁹ Advocacy Section Exhibit 2, p. 4.

regulatory review by the Associate Administrator of Motor Carriers represents “a new layer of review” that in many cases will save considerable time for an applicant pursuing reconsideration from an initial denial.¹⁰ He emphasized, however, that if the applicant is not satisfied with the review and decision of the Associate Administrator of Motor Carriers, the applicant “retains his/her right to request a full hearing before a hearing officer.”¹¹

Mr. Mercer testified that the provisions of Section “E” come directly from Rule H of the Cab Rules, supra. He related: “they’re already in effect”. Mr. Mercer reasoned that he thought it useful to list all driver-related rules in one set of Operator Rules.¹² Similarly, Mr. Mercer related that Sections “F”, “G”, “J” and “K” also come from the Division’s existing Cab Rules.¹³

Mr. Mercer testified that Section “H” relates to the PMV industry and its drivers, which he described as a transportation service that is less regulated than taxicab and LPMV services. He explained that Section H provides some minimum requirements for PMV drivers that are also common for drivers of taxicabs and LPMVs (i.e., a driver smoking prohibition).¹⁴

Mr. Mercer stated that Section “I” sets forth the penalties for violations of the Operator Rules, which have their roots in statutory law. He related that Section I(3) represents an attempt to “streamline” the penalty process. Mr. Mercer explained that under Section I(3), the Motor Carrier Section may

¹⁰ Id., p. 5.

¹¹ Id.

¹² Id., p. 6.

¹³ Id.

¹⁴ Id., p. 7.

issue drivers a “Notice of Probable Violation” (“NOPV”) for “common minor violations of Division rules”. Mr. Mercer testified that the proposed rule is designed to streamline the process by allowing a driver to admit to a violation and pay a fine according to the schedule listed in the proposed rules. Mr. Mercer related that it keeps the driver “from having to take time out of work to attend a hearing, admit guilt and ultimately pay a fine anyway.”¹⁵ Mr. Mercer stressed that “in no way...does this rule preclude a driver from contesting an NOPV and requesting a hearing before a Division hearing officer.”¹⁶

4. Submitted Data, Views and Arguments (Public Comments)

a. February 23, 2006 Hearing

Four individuals offered comments on the proposed Operator Rules during the February 23, 2006 hearing. These individuals were identified as follows: Mr. Paul Desrosiers, representing Big Daddy Taxi Company; Mr. Howard Cohen, representing Good Times Limousine; Mr. William Legare, representing Valley Transportation, Valley Cab Company and Northwest Transportation Service; and Mr. Joseph Cardillo. Additionally, the Rhode Island Affiliate, American Civil Liberties Union (“ACLU”) submitted written comments in this docket.¹⁷

Mr. Desrosiers generally supported Section C(1)(d) of the proposed Operator Rules, but questioned the writing requirement and how the

¹⁵ Id., p. 8.

¹⁶ Id.

¹⁷ Public Comment Exhibit 1.

Division would enforce such a rule. He stated: *“I think it’s a good rule, except it doesn’t mention any standardized test that would be involved and what the criteria is for actually being able to converse with the passengers.”* He added: *“as far as writing English is concerned, I know of a couple of individuals that are illiterate that have driven taxicabs for years. There’s no writing (or “reading”) criteria to receive a chauffeur’s license or a driver’s license in the State of Rhode Island.”*¹⁸ However, Mr. Desrosiers fully supported the proposed requirement that drivers be able to communicate with English speaking passengers. He explained: *I’ve gotten dozens of complaints from customers that have been unable to converse with a driver, and the lack of communication causes the fare to be much more than what it is. I think that should be implemented as soon as possible.*¹⁹

Mr. Desrosiers also questioned the purpose behind some of the eligibility requirements in Section D(2)(b). For example, he opined that a criminal history record that reflects non-violent crimes should not bar an individual from driving a taxicab or limousine.²⁰ He also noted that such strict eligibility requirements “lessens the pool of people that we can choose from who are able and willing to do the job.”²¹ He did, however, suggest that “anyone convicted of any sexual offense...be barred for life.”²²

¹⁸ 2/23/06, Tr. 27-28.

¹⁹ *Id.*, Tr. 29-30

²⁰ *Id.*, Tr. 40-41.

²¹ *Id.* Tr. 43-44.

²² *Id.*, Tr. 40-41.

Mr. Cohen had a question about the definition of “Unmarked vehicles” contained in Section B (15). His question was fully addressed at the hearing.²³

Mr. Cardillo had a question about Section H(1), which prohibits PMV drivers from smoking in the vehicle. Mr. Cardillo compared his PMV to a “workplace” and queried whether the State law that prohibits smoking in a workplace applies to the passengers he carries in the rear seat of his PMV. In response to this question, the Advocacy Section noted that State law does not “allow us to regulate conduct of the passengers.”²⁴ The Advocacy Section further stated that PMV companies have the right to adopt “more stringent requirements” and may prohibit their passengers from smoking in their vehicles.²⁵

Mr. Legare questioned whether the proposed Operator Rules applied to operators of “vehicles under public plates”. Mr. Legare observed that the Registry of Motor Vehicles (“DMV”) issues “public plates” to a variety of transportation companies that fall outside the scope of taxicab, LPMV and PMV operations. He described school buses and “charter work” as examples.²⁶ In response to Mr. Legare’s question, the Advocacy Section stated that the proposed Operator Rules would not apply to any passenger services that are not currently regulated as taxicabs, LPMVs or PMVs.²⁷

²³ *Id.*, Tr. 51-57.

²⁴ *Id.*, Tr. 58.

²⁵ *Id.*, Tr. 59.

²⁶ *Id.*, Tr. 65-66.

²⁷ *Id.*, Tr. 66-67.

Mr. Legare also asked whether the Division would rely on “on-line” driving records during the “blue card” renewal process rather than sending the driver to the DMV for an abstract, which he described as time consuming. Regarding this question, Mr. Mercer related that the Operator Rules require a certified abstract to protect against fraud. Mr. Mercer noted that the on-line copy would not be certified and that the copy would have to be procured at the Division’s offices to ensure that the copy was not altered by the applicant before submission to the Division. Mr. Mercer further noted that obtaining a copy on-line requires a PIN number and a credit card, which would further complicates the process.²⁸

The ACLU’s written comments are summarized below:

- The ACLU observes that the “automatic denial” provisions contained in Section D(2)(b) “*contain no formal standards for ruling on the request.*” The ACLU contends that “*this rule will unnecessarily and inappropriately disqualify in the first instance many qualified taxicab driver applicants, and will further have a disparate impact on racial minorities, who are more likely to have criminal records.*” The ACLU recommends that the Division adopt specific standards that would only bar prospective drivers “*where the criminal record indicates a potential danger to the safety of other motorists or the public, or the consumer interests of passengers (i.e., the potential for fraud)*”.

²⁸ Id., Tr. 69-71.

- With respect to Section E(2), the ACLU expressed “our continued concern about the ban contained in subsection (h) on certain types of clothing for taxi drivers, such as ‘collarless shirts with logos.’ The ACLU contends that “*a ban on specific types of casual clothing improperly infringes on the rights of drivers.*”

- The ACLU also expressed concern with the provision in Section K(2) that permits the hearing officer to reduce the 10-day hearing notice requirement when “the hearing officer determines that less notice is reasonable.” The ACLU cautioned that what may be reasonable to the hearing officer may not be reasonable to the applicant, “whose property interests are at stake.” The ACLU recommended, “that the word ‘reasonable’ be deleted and ‘necessary’ be substituted in its place.”²⁹

b. April 10, 2006 Hearing

Subsequent to the February 23, 2006 public hearing, the Division was contacted by several groups of interested persons who failed to offer comments at the earlier February 23, 2006 public hearing. These individuals sought an opportunity to offer late comments on the proposed Operators Rules. The Division granted this request and scheduled and conducted an additional hearing to offer those groups another chance to offer comment in this docket.

Thirteen individuals offered comments on the proposed Operator Rules during the April 10, 2006 hearing. These individuals were identified as

²⁹ See Public Comment Exhibit 1.

follows: The Honorable Grace Diaz, State Representative, District 11; The Honorable Juan Pichardo, State Senator, District 2; Ms. Gladys Gould, representing Council 94, Mr. William Emmons; Mr. Eric Larson; Mr. Marcos Lara; Ms. Sara Mersha; Mr. Dionisio Perez; Mr. Manelik Vallejo; Mr. Miguel Moreno; Mr. Freddy Mago; Mr. Eliezer Torres; and Mr. Daniel Mercedes.

Representative Diaz began her comments by suggesting that the English language requirements of Section C(1)(d) of the proposed Operator Rules be eliminated. She related that this provision would be harmful to the many Spanish speaking citizens and independent businesses of Rhode Island that are already in the taxicab business, some of whom she related have been providing related services for as many as 20 years.³⁰

Representative Diaz also asked the Division to remove the language in Section D(1)(e) that invites an applicant to voluntarily provide a Social Security Number during the application process. She related: "I think there's too many issues related to immigration [at] this time, and we don't need to have that requirement in that section." Similarly, she asked the Division to excise Section D(1)(i), based on her opinion that proof of legal citizenship is not a proper issue for Division consideration. Representative Diaz additionally asked the Division to eliminate the provision in Section D(2)(b)(iv) that would disqualify a prospective driver who has been involved in three accidents within the previous 24-month period. She contended that

³⁰ 4/10/06, Tr. 4-5.

if the accidents were not the “fault” of the applicant they should not be held against him.³¹

The Advocacy Section thereafter proffered Mr. Mercer to respond to Representative Diaz’s comments. Mr. Mercer testified that the Division would not enforce Section C(1)(d) against existing blue card holders. He related “we would grandfather in anybody who already has a blue card.”³² Mr. Mercer related that the Division would, however, expect these grandfathered blue card holders to “continue to improve in their knowledge and use of the language.”³³ Mr. Mercer added that the Division is “not looking to put people out of the industry who had been in there successfully for a while.”³⁴

Mr. Mercer next addressed Representative Diaz’s other concerns, including the so-called “three accident rule.” Mr. Mercer related:

“Each of those requirements and rules already exist elsewhere in the taxi industry rules. They’ve just been migrated over to the taxi driver rules, but it’s already a requirement that they meet certain criteria either as an applicant or when we do a review of the application, the threshold for approval or denial is already there in the existing rules.”

As an example, Mr. Mercer explained that if a driver were to come in today to renew his blue card and a compliance inspector looked at the application and saw three accidents in the last 24 months. The “inspector would likely,

³¹ Id. Tr. 6.

³² Id., Tr. 9.

³³ Id.

³⁴ Id., Tr. 9-10.

in accordance with our rules, deny the application.” He explained that the applicant “then has an opportunity to request a hearing before a Division hearing officer to explain the situation.” Mr. Mercer related that after an explanation is provided the applicant is “oftentimes...granted either a full one-year license...or...a probationary blue card until such time as they may drop off, they being the number of accidents, drop off the driving abstract.” Mr. Mercer also emphasized, “[w]e do realize that not every accident listed on the driving abstract is indeed the fault of the applicant.”³⁵ Mr. Mercer also related that he could not remember one case where an applicant was denied a blue card based on his or her accident record alone.³⁶

Mr. Mercer also offered a response on the concerns regarding the possibility of a Section D(2)(b) “initial” denial. He related that an applicant may still request two additional regulatory reviews. First, a subsequent informal review performed by the Associate Administrator of the Division’s Motor Carriers Section under Section D(2)(c); and second, a final formal review, if necessary and requested by the applicant, by a Division hearing officer under Section D(2)(d). Mr. Mercer insisted that an applicant would not lose any existing rights under these proposed Operator Rules, instead, he would gain “an extra level of rights that might get him back on the street quicker.”³⁷ Mr. Mercer also emphasized that the Division would quickly

³⁵ Id., Tr. 10-11.

³⁶ Id., Tr. 12.

³⁷ Id., Tr. 12-13.

review any initial denial in order to determine if the applicant should be issued a blue card.³⁸

Senator Pichardo questioned why evidence of a standard driver's license or chauffeur's license alone was not a sufficient basis for the issuance of a blue card.³⁹ Senator Pichardo also questioned the need for applicants to "speak and write and read and understand the English language" when technology can be used facilitate communications. He observed that there are foreign language GPS tools that can be used to locate any address provided by a passenger. Senator Pichardo also suggested that a Spanish-speaking driver best serves the Spanish-speaking community who often use taxicab service as an alternative to owning a personal automobile.⁴⁰ Senator Pichardo additionally asserted that applicants with misdemeanor criminal records "deserve second chances" and should therefore not be ineligible to drive a taxicab. Senator Pichardo further asked the Division to consider the impact the proposed Operator Rules would have on drivers in their capacity as small businesses.⁴¹

Ms. Gladys Gould expressed concerns over what the provisions of Section C(1)(d) of the proposed Operator Rules would mean for new entrants to the taxicab industry. She worried that the Rule would result in "discrimination" against future non-English speaking applicants and lead to

³⁸ Id., Tr. 13-15.

³⁹ Id., Tr. 61-62.

⁴⁰ Id., Tr. 62-63.

⁴¹ Id., Tr. 63.

“profiling.”⁴² Ms. Gould also believes that non-English speaking drivers can adequately navigate the State’s roads.

Mr. William Emmons, a student at Brown University, opined that a driver need not be fluent in English in order to understand directions from a passenger.⁴³

Mr. Eric Larson, a member of *Rhode Island Jobs for Justice*, agreed with Ms. Gould’s comments. He also believes that driving a taxicab is a “dangerous job”; and that “we need to integrate people into society.” He also feels that a DMV-issued chauffeur’s license ought to be a sufficient basis for the issuance of a blue card.⁴⁴

Mr. Marcos Lara, who required assistance from an interpreter, opined that the “Latino community” needs the non-English speaking taxicab drivers. He also related that he already possessed a blue card.⁴⁵

Ms. Sara Mersha identified herself as the Executive Director of DARE (Direct Action for Rights and Equality). In her opening comments, Ms. Mersha agreed with some of the other speakers who voiced concern that Section C(1)(d) of the proposed Operator Rules would mandate different standards for new entrants and existing licensees. She also agreed that having a DMV-issued driver’s license should be enough to drive a taxicab, and that non-English speaking drivers are able to understand their passengers. Ms. Mersha contended that it is not necessary for drivers to

⁴² Id., Tr. 19-20.

⁴³ Id., Tr. 22.

⁴⁴ Id., Tr. 23-24.

⁴⁵ Id., Tr. 23-26.

speak, read, write and understand the English language. Rather, it is only important that they are able “to understand highway traffic signs and signals and communicate with passengers.”⁴⁶

Ms. Mersha also supported Representative Diaz’s comments regarding social security numbers and proof of legal residency requirements. She declared that the Division is not the “Department of Immigration.” She also echoed Representative Diaz’s comments in questioning the need for the Division to consider an applicant’s driving record during the application process.⁴⁷ Ms. Mersha also rejected the need to consider the applicant’s criminal record during the application process. She asserted that no matter whether the applicant has a misdemeanor or felony record, that record should not bar an applicant from driving a taxicab. On this issue, Ms. Mersha offered the following observation:

“...whether it’s a misdemeanor or a felony, the Department of Corrections, the criminal justice system gives that person whatever type of punishment or rehabilitation that is necessary. But if we continue to punish people after they’ve served their sentences and prevent them from being able to work and support themselves in a legal way, then people are only going to be able to turn to things that are not legal to survive and I don’t think that that’s something the ...[Division] is intending to do, but that would be the effect, and that’s something that’s very serious in our community right now.”⁴⁸

⁴⁶ *Id.*, Tr. 27.

⁴⁷ *Id.*, Tr. 28-29.

⁴⁸ *Id.*, Tr. 29-30.

In her final comments, Ms. Mersha stated that she was “very concerned” about the language in the notice provisions in Section K(2), which authorizes “the Division to order notice by other means, including but not limited to notice by publication,” if the Division decides not to notify by “first class mail or personal service,” as prescribed elsewhere in the Rule. Ms. Mersha recommended that all hearing notices be provided via certified mail.⁴⁹ She also took exception to the provision in Section K(2) that states that “the Division shall give at least ten (10) days written notice of the hearing unless the hearing officer determines that less notice is reasonable.” Ms. Mersha contended that notices should always provide at least ten (10) days notice. She argued that the Division should not have the discretion to shorten this notice requirement.⁵⁰

Mr. Dionisio Perez also expressed concern with Section C(1)(d) of the proposed Operator Rules. He related that the language issue was unimportant and asked if drivers would also have to learn Chinese and Japanese to accommodate their Chinese and Japanese passengers.⁵¹ Mr. Perez also opposed the minimum driving record requirements contained in Section D(2)(b); and declared that Mr. Mercer was “not working on our behalf.”⁵²

⁴⁹ Id., Tr. 31-32.

⁵⁰ Id., Tr. 32-33.

⁵¹ Id., Tr. 42.

⁵² Id., Tr. 42-43.

Mr. Manelik Vallejo, who also required assistance from an interpreter, contended that a chauffeur's license should be all that is required in order to receive a blue card. He also rejected any requirement of legal residency or English language comprehension. He also supported the opposition comments from the other speakers.⁵³

Mr. Miguel Moreno also opposed the criminal record provisions contained in Section D(2)(b). He, too, believed that "people need a second chance" and an "opportunity" to work.⁵⁴

Mr. Freddy Mago observed that there are always language barriers in the taxi business. Mr. Mago noted that English-speaking drivers often carry non-English speaking passengers. He related that there is "a lot of diversity...in Providence, people from all over the world." Mr. Mago stated that instead of adopting an English-comprehension requirement, the Division should sponsor "workshops...a couple of nights a week" and meet with "business owners" in order to discuss the Division's rules and regulations.⁵⁵

Mr. Eliezer Torres identified himself as a dispatcher for Gonzales Cab. He related that he has not witnessed any real language problems because the dispatchers are all bilingual, and who communicate with drivers through radios and cell phones.⁵⁶

⁵³ Id., Tr. 46-47.

⁵⁴ Id., Tr. 51.

⁵⁵ Id., Tr. 53-57.

⁵⁶ Id., Tr. 65.

In response to the English-language comprehension concerns expressed by the Hispanic community, Mr. Mercer offered some additional testimony in support of the proposed Operator Rules. Mr. Mercer principally responded to the suggestion that there is not an English comprehension problem in the taxi industry. He related: “we frequently get phone calls from people where it’s been a problem.” He also provided two examples that resulted in formal complaint-related adjudications by the Division.⁵⁷

Mr. Daniel Mercedes questioned whether the Division could establish a special telephone complaint line in order to permit the Hispanic community to file complaints with the Division in Spanish.⁵⁸

5. Findings

The Division appreciates the data, views and arguments that were offered by the industry members and the other interested persons who participated in this rulemaking proceeding. The Division has considered the many suggestions and recommendations offered by the participants and has reached a number of related findings, as described below:

a. Section C (1)(d) of the proposed Operator Rules

Most of the comments made during this rulemaking proceeding focused on Section C (1)(d) of the proposed Operator Rules. This rule provides that any individual applying to the Division for a hackney operator’s license must first “*be able to speak, read, write and understand the English language sufficiently to understand highway traffic signs and signals and*

⁵⁷ Id., Tr. 66-69.

⁵⁸ Id., Tr. 80-81.

communicate with passengers.” The Division has considered the comments and concerns expressed by the many individuals and elected officials who participated in this rulemaking, as well as the rationale for the proposed rule, as articulated by the Motor Carrier Section’s representative, and finds that a modification to the proposed rule is warranted. Specifically, the Division will require its regulated hackney operators (blue card holders) to possess a “working knowledge of the English language sufficient to understand highway traffic signs and signals and communicate with passengers.” The Division will remove references to reading and writing the English language. However, to adopt this modification the Division must also shift a commensurate level of responsibility to the certificate holders who employ drivers who do not speak English as a “first” language. Certificate holders must ensure that these drivers truly have a “working knowledge” of the English language and, if needed, have immediate access to bilingual dispatchers. Certificate holders must also ensure that these drivers are informed about and well versed in the provisions and requirements of the Division’s relevant rules and regulations before they may operate a taxi, LPMV or PMV.

b. Section D(2)(b) of the proposed Operator Rules

The Division has considered the comments and concerns expressed by the many individuals and the elected officials who participated in this rulemaking, including the ACLU, as well as the rationale for the proposed rule, as articulated by the Motor Carrier Section’s representative, and finds

insufficient cause to amend any of the eligibility requirements contained in Section D(2)(b) of the proposed Operator Rules. As Mr. Mercer indicated, the Division has been utilizing the same eligibility standards prescribed in Section D(2)(b) for many years. The rule simply represents a formal codification of these standards and this practice. Further, the Division finds that the eligibility standards in issue, all related exclusively to driving and criminal record histories, are relevant, reasonable and in the public interest.

The Division also finds that possession of a DMV-issued operator's and/or chauffeur's license does not, by itself, constitute acceptable grounds for the issuance of a State hackney operators license. State law clearly requires that an individual seeking authority to operate a taxicab, LPMV or PMV, obtain both a DMV-issued license and a "special license from the division of public utilities and carriers."⁵⁹ Therefore, to accept the argument that a DMV-issued operators or chauffeur's license is alone sufficient to drive a taxicab, LPMV or PMV, is tantamount to ignoring and effectively nullifying the clear mandate of State law. Indeed, the Division believes that the eligibility standards delineated in Section D(2)(b) are precisely the kind envisioned by the Legislature and the underlying basis for the statutory dual-licensing requirements.

Some comments made during the proceeding focused upon the "automatic denial" aspects of Section D(2)(b). The ACLU contends, "*this rule will unnecessarily and inappropriately disqualify in the first instance many*

⁵⁹ See R.I.G.L. §§39-14-20 and 39-14.1-8.

qualified taxicab driver applicants, and will further have a disparate impact on racial minorities, who are more likely to have criminal records.” The Division does not accept this argument. Section D(2)(b) provides an objective standard for examining the “fitness” of prospective for-hire drivers. The screening process provides three levels of review, which allows for a meaningful regulatory examination of an applicant’s driving record and criminal history record, while providing the applicant several opportunities to fully explain the circumstances surrounding each driving violation and/or criminal conviction. The Division maintains that the Rule provides a proper balance between the individual rights of the applicant and the paramount concern of safeguarding the public interest.

c. Section K(2) of the proposed Operator Rules

There were also some concerns expressed regarding the provisions in Section K(2) that allow notice “by other means”, and which permit the hearing officer to reduce the 10-day hearing notice requirement when “the hearing officer determines that less notice is reasonable.” The Division notes that this language is consistent with the hearing notice requirements presently contained in the *Practice and Procedure* Rules of both the Division and the Public Utilities Commission. The provisions are not unreasonable and allow notice flexibility when required in the applicant’s and/or the public’s interest.

d. Section D(1)(e) and (i) of the proposed Operator Rules

There were also some concerns expressed with regard to some of the information requested on the licensing application, in particular, a Social Security Number and proof of legal residency. The Division maintains that its policy on Social Security Number information is consistent with federal law, in that providing this information is “voluntary”. With respect to seeking confirmation of legal residency, the Division must emphasize that driving a taxicab, LPMV or PMV in Rhode Island is a regulated activity. The Division is responsible for ensuring that drivers are “fit” and this evaluation must include a determination of whether a prospective driver is violating federal immigration laws or State identity fraud laws.⁶⁰ Not only is evidence of immigration and identity fraud violations relevant to the issuance of a State hackney license, but such a determination is crucial, as it would otherwise be impossible to rely solely on the “no criminal record” stamp indicated on a criminal history report from the State’s Bureau of Criminal Identification (BCI).⁶¹

e. Section E(2)(h) of the proposed Operator Rules

The ACLU expressed “continued concern about the ban contained in subsection (h) on certain types of clothing for taxi drivers, such as ‘collarless shirts with logos.’ The ACLU contends: “*a ban on specific types of casual clothing improperly infringes on the rights of drivers.*” The Division

⁶⁰ See R.I.G.L. §11-49.1-3.

⁶¹ Under current law, the Division’s access to an applicant’s criminal record history is limited to Rhode Island arrest and conviction records only.

notes that the Rule in issue has been included in the Division's Cab Rules since its initial promulgation on September 21, 2000. Since the rule has been in effect, the Division has never received a related complaint or found a driver in violation of its provisions. As it first concluded in 2000, the Division still believes the rule is reasonable and in the public interest. Further, in view of our regulatory experience with this rule, the Division finds no evidence that the rule is infringing on the rights of drivers.

f. Miscellaneous Comments

There were several suggestions that the Division promulgate additional rules and regulations that were not contemplated in this rulemaking proceeding. As these proposals unfortunately exceed the scope and notice parameters of the instant rulemaking docket, the Division did not address those proposals in this decision. However, the Division wants to make it clear that any interested individual may pursue his or her own proposed revisions to these Operator Rules at any time by filing an appropriate petition with the Division under Section 13(b) of the Division's *Rules of Practice and Procedure*.

7. Conclusion

The Division has responded to the data, views and arguments offered by those members of the industry and other interested persons who participated in the instant rulemaking. Based on the comments offered regarding Rule C(1)(d), the Division has decided to modify the proposal being recommended by the Motor Carrier Section. However, with respect to the

other rules being proposed by the Motor Carrier Section, the Division finds those proposed rules reasonable and in the public interest.⁶² The modified Operator Rules are memorialized in “Appendix 2”, which is attached to this report and order.

Now, Accordingly, it is

(18627) ORDERED:

1. That predicated upon and modified by the findings contained herein, the Division hereby adopts the “*Rules and Regulations for Licensing Operators Transporting Passengers in Taxicabs, Limited Public Motor Vehicles and Public Motor Vehicles*” as reflected in “Appendix 2” to this report and order.
2. That “Appendix 1” and “Appendix 2” are hereby incorporated by reference.
3. That the Division’s Rules Coordinator is hereby instructed to file a certified copy of the attached “*Rules and Regulations for Licensing Operators Transporting Passengers in Taxicabs, Limited Public Motor Vehicles and Public Motor Vehicles*” (Appendix 2) with the Rhode Island Secretary of State as soon as practicable, and also to fully comply with the filing requirements contained in R.I.G.L. §42-35-3.1 and §42-35-4. The Division will endeavor to file the instant Rules with the Rhode

⁶² The Division notes that while it adopted the Cab Rules proffered by the Motor Carrier Section, with the modifications described herein, the actual Division Cab Rules being issued by the Division (Appendix 2) reflect non-substantive formatting and wording changes.

Island Secretary of State on or before June 19, 2006 in order to facilitate an effective date of July 10, 2006.

4. That the new “*Rules and Regulations for Licensing Operators Transporting Passengers in Taxicabs, Limited Public Motor Vehicles and Public Motor Vehicles*” shall take effect on July 10, 2006.

Dated and Effective at Warwick, Rhode Island on June 13, 2006.

John Spirito, Jr., Esq.
Hearing Officer

APPROVED: _____
Thomas F. Ahern
Administrator

Rules and Regulations for Licensing Operators Transporting Passengers in Taxicabs, Limited Public Motor Vehicles and Public Motor Vehicles

A. Introduction

1. **Hackney Operator's License Required For All Drivers.** No person shall transport passengers for hire in a **taxicab, limited public motor vehicle (LPMV) or public motor vehicle (PMV)** within the state without first applying for and being issued by the Division of Public Utilities and Carriers (the "Division") a Rhode Island **Taxi-LPMV-PMV Operator's License**, commonly referred to as a "blue card" or "hackney operator's license." Once issued, the Taxi-LPMV-PMV Operator's License will allow the holder to operate all three types of vehicles for hire.
2. **Authority Of The Division Of Public Utilities And Carriers.** The Division is responsible for licensing the operators (drivers) of all **taxicabs, limited public motor vehicles and public motor vehicles** transporting passengers for hire. State law provides that no person shall operate a **taxicab or limited public motor vehicle** upon the highways of this state until that person shall have first obtained a special license from the Division under such rules as the Division shall require. R.I. Gen. Laws § 39-14-20. Further, no person shall operate a public motor vehicle upon the highways of this state until that person shall have first obtained a special license from the Division under such rules as the Division shall require. R.I. Gen. Laws § 39-14.1-8.
3. **Status As Common Carriers And Requirement To Regulate.** State law provides that every person operating a motor vehicle engaged in operating as a **taxicab, limited public motor vehicle or public motor vehicle**, is declared a common carrier and subject as such to the jurisdiction of the Division. The Division is required to prescribe such rules and regulations as it deems proper to assure adequate, economical, safe, and efficient service. R.I. Gen. Laws §§ 39-14-2 and 39-14.1-2.

B. Definitions

1. "**Administrator**" means the Administrator of the Division of Public Utilities and Carriers.
2. "**Cab**" means taxicab or limited public motor vehicle as defined in these rules and in R.I.G.L. §39-14-1(4) and §39-14-1(7).

3. “**Certificate**” means a certificate of operating authority issued to a taxicab, limited public motor vehicle or public motor vehicle company.
4. “**Charter carrier**” means a provider of transportation services to groups such as: lodges, bands, athletic teams, schools or other travel groups, assembled by someone other than the carrier who collectively contracts for the exclusive use of certain equipment for the duration of a particular trip or tour. Charter carrier services shall also include transportation services provided by employment agencies or employers to individuals in the context of providing transportation to and from their place of employment.
5. “**Common carrier**” as used in these rules means any person engaging in the business of providing transportation services for compensation to passengers through the use of a taxicab, limited public motor vehicle or public motor vehicle, as defined in these rules.
6. “**Division**” means the Division of Public Utilities and Carriers.
7. “**Driver**” or “**operator**” means, for the purpose of these rules and regulations, any person operating a motor vehicle used for the for-hire transportation of passengers which he or she owns or is operating with the express or implied consent of the owner.
8. “**Jitney**” means and includes any motor bus or other public service motor vehicle operated in whole or in part upon any street or highway in such manner as to afford a means of transportation similar to that provided by a street railway company, by indiscriminately receiving or discharging passengers; or running on a regular route or over any portion thereof; or between fixed termini.
9. “**Limited public motor vehicle**” means and includes every motor vehicle for hire, other than a jitney, a taxicab, or a public motor vehicle, as defined herein, equipped with a taximeter used for transporting members of the general public for compensation only from a designated location on private property to such points as may be directed by the passenger.
10. “**Motor carrier**” means a common carrier by motor vehicle.
11. “**Person**” means and includes any individual, firm, partnership, corporation, company, association, joint stock association, or other association of individuals, or company, and his, her or its lessee, trustee, receiver, assignee, or personal representative, and, where the context requires, “driver” or “operator” as defined herein.
12. “**Public motor vehicle**” means and includes every motor vehicle for hire, other than a jitney, a taxicab or a limited public motor vehicle, as defined herein, used for transporting members of the general public for compensation in

unmarked vehicles at a predetermined or prearranged rate or fee to such points as may be directed by the passenger. Transportation services provided by charter carriers, as defined above, or by funeral homes in association with funeral services, and by ambulance companies shall be exempt from these rules and regulations.

13. **“Taxicab”** means and includes every motor vehicle for hire, other than a jitney, limited public motor vehicle, or public motor vehicle, equipped with a taximeter, used for transporting members of the general public for compensation to any place within this state as may be directed by a passenger on a call and demand basis, when the solicitation or acceptance of the passenger occurs within the location named in the certificate of operating authority for that taxicab; provided, that the vehicle’s driver may, if and when solicited on a public highway at any location at which he or she is discharging a passenger, which location is not shown in the certificate, provide transportation from the location only to a place named in the certificate.

14. **“Taximeter”** means any instrument or device by which the charge for transportation in any taxicab or limited public motor vehicle is mechanically calculated and indicated by means of figures, either for distances traveled or for waiting time, or for both.

15. **“Unmarked vehicles”** means motor vehicles that do not display the transportation company’s name, address or telephone number, or any advertisements or commercial information beyond that included by the vehicle’s manufacturer on the vehicle’s exterior surfaces.

C. Applicant Eligibility

1. Any individual applying to the Division for a hackney operator’s license must first:
 - a. Be at least 21 years of age (as required by R.I.G.L. 31-10-5).
 - b. Be a citizen of the United States of America or otherwise be legally permitted to work within the State of Rhode Island.
 - c. Possess either a valid chauffeur’s license or a valid Commercial Driver’s License (CDL) issued by the Division of Motor Vehicles (DMV), or an equivalent license issued by another State and acknowledged by the Rhode Island DMV.
 - d. Be able to speak, read, write and understand the English language sufficiently to understand highway traffic signs and signals and communicate with passengers;
 - e. Be familiar with the major highways, routes, streets and traffic laws of the State of Rhode Island.
 - f. Be familiar with all Division rules and regulations regarding the transportation of passengers for hire in the applicable mode(s) of

transportation the applicant will operate – taxicab, limited public motor vehicle and/or public motor vehicle.

D. Division Licensing Procedure

1. Individuals who apply for a hackney operator’s license must supply to the Division the following information:
 - a. Name
 - b. Date of Birth
 - c. Address (residence *and* mailing, if applicable)
 - d. Telephone Number
 - e. Social Security Number (Disclosure is voluntary, see Appendix A)
 - f. Driver’s License Number (including type and class)
 - g. Employer (if applicable)
 - h. Original certified copies of the applicant’s driving record obtained from the Division of Motor Vehicles and record of all criminal convictions obtained from the Bureau of Criminal Identification (BCI) of the Department of the Attorney General. Said record checks must have been obtained by the applicant within thirty (30) days of the submission of the license application.
 - i. Proof that applicant is a citizen of the United States or otherwise legally permitted to work within the State of Rhode Island.

2. The Motor Carriers Section of the Division shall approve or disapprove all applications for a “hackney operator’s license” as soon as practicable within ten (10) business days after receiving the required documentation/information. This time period may be extended for not more than thirty (30) days, for just cause, by the Division, with notice of the extension to the applicant.
 - a. A Motor Carriers Section compliance inspector shall review the entire application presented (including driving record and BCI record). If approved, the applicant will receive a Hackney Operator’s License, which shall be carried at all times while operating a taxicab, LPMV or PMV. If approved, said license will be valid for one year only. Any license issued remains the property of the Division at all times and must be surrendered to the Division immediately upon request.
 - b. A Motor Carriers Section compliance inspector shall review the driving record and BCI record presented by the applicant and an individual’s application shall be denied by the inspector if the applicant has been:
 - i. Convicted or adjudicated of two (2) moving violations within a 2-month period during the last 36 months; or
 - ii. Convicted or adjudicated of three (3) moving violations within the previous 36-month period; or

- iii. Convicted or adjudicated of three (3) non-moving violations (excluding parking tickets) within a 12-month period during the previous 36-month period; or
- iv. Involved in three (3) accidents within the previous 24-month period; or
- v. Convicted or adjudicated of an alcohol-related offense within the previous five (5) years; or
- vi. Convicted of a traffic offense in District Court within the previous five (5) years; or
- vii. Convicted of a misdemeanor within the previous one (1) year or a series of misdemeanors within the previous five (5) years; or
- viii. Convicted of a felony within the previous ten (10) years.

Providing false or incomplete information on an application shall result in automatic denial of application.

- c. If an application is denied by an inspector, the applicant may first request that the Associate Administrator of the Motor Carriers Section reconsider the application. The applicant shall write a letter to the Associate Administrator, in which the applicant requests reconsideration and offers a satisfactory explanation for the circumstances that warranted the initial denial. Upon reconsideration, the Associate Administrator may:
 - i. Issue a license without restrictions
 - ii. Issue a license with probationary restrictions
 - iii. Uphold the denial
- d. If the Associate Administrator upholds the denial or proposes to issue a license with probationary restrictions, the applicant may request a full reconsideration hearing before a Division hearing officer by sending a letter addressed to the Administrator. At said hearing, the applicant shall be given notice and an opportunity to be heard and maintains the right to be represented by counsel at his/her own expense.

E. Conduct of Taxicab Drivers

1. All drivers issued a hackney operator's permit must conduct themselves in a courteous and professional manner at all times while on-duty.
2. All **taxicab drivers** issued a hackney operator's license must conduct themselves in accordance with all rules and regulations promulgated by the Division regarding the regulated activities of transporting passengers. Said rules include the instant rules as well as the Rules and Regulations Governing the Transportation of Passengers Via Taxicabs and Limited Public Motor Vehicles ("taxicab rules") – Specifically, the following provisions of Rule H of the latter:

- a. Each driver shall place, in a Division-approved receptacle and location, his/her Division-issued hackney license.
- b. No person shall drive or be in physical control of any cab, for the purpose of carrying passengers, for a period in excess of 12 hours in any 24-hour period, unless the driving time is broken by a period of eight full hours of rest. No certificate holder or his or her agent shall knowingly permit any cab to be driven in violation of this paragraph.
- c. No cab shall be driven when it is so loaded or when there is in the front seat such number of persons as to obstruct the view of the driver to the front or sides, or to interfere with his control over the cab. No cab shall carry more adult passengers than the manufacturer's designed capacity of the vehicle.
- d. Nothing shall be transported in any cab that will cause the interior of such cab to become soiled or offensive to passengers because of odor or appearance.
- e. Any individual who drives a cab, including a certificate holder, must report any criminal conviction or adjudicated traffic violation to the Division within five (5) business days of the conviction or adjudication. If a Division investigation reveals that the criminal conviction or adjudicated traffic violation is of such a nature that continued operation of a taxicab by said individual could constitute a danger to the public, the Division will conduct a hearing, after notice and allowing a full opportunity to be heard, to determine whether the individual's Hackney Operator's License should be revoked, suspended or otherwise limited. Failure to follow this rule will be sufficient grounds for revoking the certificate holder's certificate or the driver's operating permit.
- f. Smoking by drivers or passengers shall not be allowed in cabs at any time.
- g. Cab drivers shall not refuse a fare unless the driver fears for his/her personal safety. All passengers shall utilize safety restraints and provide and use child restraints when required by law. A cab driver must refuse a fare or terminate service if a passenger refuses to utilize safety restraints or to provide and use child restraints when required by law.
- h. All cab drivers shall be dressed in a neat, clean and professional manner. Examples of clothing which may not be considered professional include sweat pants, collarless shirts with logos and cut-off jean shorts.
- i. Solicitation and acceptance of a passenger must occur within the location named in the certificate. The vehicle's driver may, however, provide transportation from a location not shown in the certificate only if he or she is solicited on a roadway while discharging a passenger and may then only provide transportation to a territory named in the certificate. This section shall not prohibit a pre-requested round-trip as allowed and provided for in the Division's Rules Governing the

Transportation of Passengers Via Taxicabs and Limited Public Motor Vehicles (“taxi rules”).

- j. An “On-Duty”/“Off-Duty” card shall be displayed in every taxicab to allow potential passengers to determine whether the taxicab is available for hire.

3. **Disorderly Conduct:** Drivers must act in a lawful and professional manner at all times while on duty and at all times while at a taxi stand or in the general proximity to others conducting business in the taxicab industry. Further, no driver while on duty shall engage in any behavior or activity that would constitute disorderly conduct as outlined in Title 45 of the Rhode Island General Laws, and specifically R.I.G.L. §11-45-1. Such conduct shall be punishable as set forth in Rule H of these rules and any driver engaging in such unlawful acts shall be brought to the attention of the appropriate law enforcement department.

F. Maintaining Manifests

1. All cab drivers shall maintain a driver’s manifest during each shift. Such manifest (or log) must be recorded, in ink, on a form approved by the Division and must include all trips made by the cab while under the driver’s control. It must contain the following.
 - a. the date, driver’s name, cab company and registration number;
 - b. time and mileage out at beginning of shift;
 - c. time and mileage at the end of the shift;
 - d. time and place of origin and time and place of destination of each trip;
 - e. number of passengers and fare charged for trip;
 - f. the mileage for each paid trip, as well as explanation of mileage incurred which was not incurred as the result of a paying fare;
 - g. tire inflation as recorded pursuant to rule E.1 (xi) of the Division’s taxicab rules.

G. Rates and Charges

1. Every cab is required by state law and Division rule to have a calibrated, sealed and operational taximeter. Drivers may charge **only** the rate displayed on the taximeter – as well as any other approved tariff charge (i.e. extra passenger(s) beyond two, large luggage items or an officially authorized fuel surcharge).
2. Drivers are **strictly prohibited** by state law and Division rule from charging “flat rates” in which a passenger is charged a set price for a trip in which the taximeter is not utilized.
3. Drivers must furnish passengers with fare receipts upon request.

H. Conduct of Public Motor Vehicle (PMV) Drivers

1. PMV drivers are prohibited from smoking in the for-hire vehicle. (Passengers, however, shall not be prohibited by these rules from smoking in the vehicle,

- although each PMV certificate holder may prohibit passengers from smoking in its vehicles if it sees fit.)
2. Drivers operating a PMV for hire shall furnish passengers with an appropriate receipt or bill of lading upon request.
 3. PMV drivers must have a valid “Blue Card” in his/her possession when transporting passengers for hire. (The “Blue Card” is not required, however, to be conspicuously posted in the vehicle.)
 4. All passengers shall utilize safety restraints and provide and use child restraints when required by law. A PMV driver must refuse a fare or terminate service if a passenger refuses to utilize safety restraints or to provide and use child restraints when required by law.

I. Penalties For Violations

State law provides the following penalties for violations of these Rules and Regulations Governing Operators Transporting Passengers in Taxicabs, Limited Public Motor Vehicles and Public Motor Vehicles:

1. Criminal Penalties

- a. **Operation Of Taxicabs and Limited Public Motor Vehicles.** Any operator of a **taxicab** or **limited public motor vehicle** who violates any provision of these rules and regulations shall be fined not more than one hundred dollars (\$100) or imprisoned not more than sixty (60) days or both, and his or her Taxi-LPMV-PMV Operator’s License may be revoked. The violation shall be a separate and distinct offense for each day during which it shall continue. R.I. Gen. Laws § 39-14-11(a).
 - b. **Operation of Public Motor Vehicles.** Any operator of a **public motor vehicle** subject to regulation by the Division who shall be guilty of any violation of these rules and regulations shall be deemed guilty of a misdemeanor and shall, upon conviction, be subject to a fine not to exceed one thousand dollars (\$1,000) or imprisonment for a term not exceeding one year, or both, for each offense. R.I. Gen. Laws § 39-14.1-9(a).
2. **Civil Penalties.** The Administrator of the Division may, in his or her discretion, impose upon any operator of a **taxicab**, **limited public motor vehicle**, or **public motor vehicle**, who violates any provision of these rules and regulations an administrative civil penalty (fine) that shall not exceed one thousand dollars (\$1,000) per each violation of a rule or regulation, and his or her Taxi-LPMV-PMV Operator’s License may be revoked. R.I. Gen. Laws §§ 39-14-11(b) and 39-14.1-9(b).

3. **Schedule of Fines For Violations Admitted by the Driver.** The Administrator has approved the following schedule of fines for the specific violations enumerated below that will be applied when the driver chooses not to contest the allegation that he or she violated these rules. ***(Violation of any rule not specifically enumerated below will result in an automatic hearing where the maximum penalty authorized by law may be imposed.)*** The Division's Associate Administrator for Motor Carriers and his/her designees may issue a Notice of Probable Violation ("NOPV") for the offenses enumerated below setting out the specific fine authorized for that offense. If the driver chooses to admit the violation, he may pay the fine by money order or personal check made out to Division of Public Utilities and Carriers in the amount indicated on the NOPV and delivered to the Clerk of the Motor Carrier Section either in person or by U.S. Mail within ten (10) calendar days of the date the NOPV was issued. ***(NOTE: Cash is not accepted for payment of fines. Inspectors are not authorized to accept payment for fines in the field. All payments must be made either in person at the Division or via U.S. Mail.)*** A driver may always choose to contest the violation charged by requesting a hearing rather than paying the fine amount on the citation. Failure to pay the NOPV fine within ten (10) calendar days of the date the NOPV is issued shall be treated as a request by the driver for a hearing. ***The Division's Hearing Officer shall not be bound by this schedule of fines, but may instead recommend whatever fine he or she feels is appropriate based on the evidence taken at the hearing; the fine imposed at the hearing may be greater than, or less than, the amount set out in this schedule.***

- a. The fine(s) prescribed for the violations listed below shall be as follows to drivers of taxicabs and LPMVs:
 - i. First offense, twenty-five dollars (\$25); second offense, fifty dollars (\$50); third offense, mandatory fitness hearing for the following:
 - (a) Rate card not properly displayed
 - (b) Active hackney license not properly displayed
 - ii. First offense, fifty dollars (\$50); second offense, one hundred dollars (\$100), third offense, mandatory fitness hearing for the following:
 - (a) Manifest (driver log) not in compliance
 - (b) Receipts not filled out properly
 - (c) Vehicle overloaded
 - (d) Smoking in vehicle (by either driver or passenger)
 - (e) Child restraint seat not utilized
 - (f) Driver not properly dressed

iii. First offense, one hundred dollars (\$100); second offense, two hundred dollars (\$200), third offense, mandatory fitness hearing for the following:

(a) Disorderly conduct at a taxi stand and/or while on duty as a cab driver.

iv. Any rules infraction or violation of applicable state law not outlined in subparagraphs “i”, “ii” and/or “iii” above shall result in a mandatory hearing before a Division hearing officer.

b. The fine(s) prescribed for the violations listed below shall be as follows to drivers of PMVs:

i. First offense, fifty dollars (\$50); second offense, one hundred dollars (\$100); third offense, mandatory fitness hearing for the following:

(a) Active “Blue Card” not in driver’s possession

(b) Failure to provide appropriate receipts

(c) Child restraint seat not utilized

(d) Smoking in vehicle (by driver)

J. Complaints

1. Any person may file a complaint with the Division regarding a violation of these rules and regulations. Complaints should be in writing and signed by the complainant stating the complainant’s address and telephone number and either mailed or hand-delivered to the Division of Public Utilities and Carriers, 89 Jefferson Blvd., Warwick, Rhode Island, 02888. Nothing in this rule should be construed to prevent the Division from instituting an investigation or proceeding based upon an oral complaint or upon information developed in any other manner.

2. If the Division determines that a complaint alleges facts which constitute a violation of Division rules and regulations, the Division shall notify in writing the particular driver of the nature of the complaint. An answer must be filed by the driver with the Division within ten (10) days following the date of the notice of the complaint. Upon receiving such answer(s), the Division shall notify the complainant of the contents or nature of the answer(s) and shall take whatever action deemed appropriate to resolve the complaint.

3. If the Division determines that the facts as alleged in any complaint are clearly not in violation of Division rules and regulations, the complainant shall be so notified and no further action will be taken.

4. However, when the Division finds that a satisfactory response is not made to the notification of the complaint, or when no response is made to a complainant, or when the facts clearly warrant, a hearing shall be conducted by the Division

concerning the complaint. The Division shall send written notice to all parties consistent with Section K of these rules and regulations.

5. Failure of the driver to appear before the Division for a scheduled hearing may result in a suspension or revocation of the driver's Hackney License. Failure of the complainant to appear for a scheduled hearing may result in dismissal of the complaint.

K. Notice

1. The Division shall give notice of the commencement of a scheduled hearing in any pending matter to all parties and to such other persons as the Division designates.
2. Notice shall be by first class mail or personal service unless otherwise specified by the Division. The Division shall give at least ten (10) calendar days written notice of the hearing unless the hearing officer determines that less notice is reasonable. Nothing, herein, however, shall limit the power of the Division to order notice by other means, including but not limited to notice by publication.
3. Unless notice to the contrary has been received by the Division, notices shall be sufficient if mailed or delivered to the following:
 - a. If the addressee is a Hackney License holder, the address shown on the last application for the issuance thereof.
 - b. If an attorney has entered an appearance on behalf of the addressee, to the office of the attorney
 - c. The latest change of address notice on file with the Division.

**Rules and Regulations for Licensing Operators Transporting
Passengers in Taxicabs, Limited Public Motor Vehicles and Public
Motor Vehicles**

A. Introduction

1. **Hackney Operator’s License Required For All Drivers.** No person shall transport passengers for hire in a **taxicab, limited public motor vehicle (LPMV)** or **public motor vehicle (PMV)** within the state without first applying for and being issued by the Division of Public Utilities and Carriers (the “Division”) a Rhode Island **Taxi-LPMV-PMV Operator’s License**, commonly referred to as a “blue card” or “hackney operator’s license.” Once issued, the Taxi-LPMV-PMV Operator’s License will allow the holder to operate all three types of vehicles for hire.
2. **Authority Of The Division Of Public Utilities And Carriers.** The Division is responsible for licensing the operators (drivers) of all **taxicabs, limited public motor vehicles** and **public motor vehicles** transporting passengers for hire. State law provides that no person shall operate a **taxicab** or **limited public motor vehicle** upon the highways of this state until that person shall have first obtained a special license from the Division under such rules as the Division shall require. R.I. Gen. Laws § 39-14-20. Further, no person shall operate a public motor vehicle upon the highways of this state until that person shall have first obtained a special license from the Division under such rules as the Division shall require. R.I. Gen. Laws § 39-14.1-8.
3. **Status As Common Carriers And Requirement To Regulate.** State law provides that every person operating a motor vehicle engaged in operating as a **taxicab, limited public motor vehicle or public motor vehicle**, is declared a common carrier and subject as such to the jurisdiction of the Division. The Division is required to prescribe such rules and regulations as it deems proper to assure adequate, economical, safe, and efficient service. R.I. Gen. Laws §§ 39-14-2 and 39-14.1-2.

B. Definitions

1. “**Administrator**” means the Administrator of the Division of Public Utilities and Carriers.
2. “**Cab**” means taxicab or limited public motor vehicle as defined in these rules and in R.I.G.L. §39-14-1(4) and §39-14-1(7).

3. **“Certificate”** means a certificate of operating authority issued to a taxicab, limited public motor vehicle or public motor vehicle company.
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5. **“Common carrier”** as used in these rules means any person engaging in the business of providing transportation services for compensation to passengers through the use of a taxicab, limited public motor vehicle or public motor vehicle, as defined in these rules.
6. **“Division”** means the Division of Public Utilities and Carriers.
7. **“Driver”** or **“operator”** means, for the purpose of these rules and regulations, any person operating a motor vehicle used for the for-hire transportation of passengers which he or she owns or is operating with the express or implied consent of the owner.
8. **“Jitney”** means and includes any motor bus or other public service motor vehicle operated in whole or in part upon any street or highway in such manner as to afford a means of transportation similar to that provided by a street railway company, by indiscriminately receiving or discharging passengers; or running on a regular route or over any portion thereof; or between fixed termini.
9. **“Limited public motor vehicle”** means and includes every motor vehicle for hire, other than a jitney, a taxicab, or a public motor vehicle, as defined herein, equipped with a taximeter used for transporting members of the general public for compensation only from a designated location on private property to such points as may be directed by the passenger.
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11. **“Person”** means and includes any individual, firm, partnership, corporation, company, association, joint stock association, or other association of individuals, or company, and his, her or its lessee, trustee, receiver, assignee, or personal representative, and, where the context requires, “driver” or “operator” as defined herein.
12. **“Public motor vehicle”** means and includes every motor vehicle for hire, other than a jitney, a taxicab or a limited public motor vehicle, as defined herein, used for transporting members of the general public for compensation in

unmarked vehicles at a predetermined or prearranged rate or fee to such points as may be directed by the passenger. Transportation services provided by charter carriers, as defined above, or by funeral homes in association with funeral services, and by ambulance companies shall be exempt from these rules and regulations.

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1. Any individual applying to the Division for a hackney operator’s license must first:
 - a. Be at least 21 years of age (as required by R.I.G.L. 31-10-5).
 - b. Be a citizen of the United States of America or otherwise be legally permitted to work within the State of Rhode Island.
 - c. Possess either a valid chauffeur’s license or a valid Commercial Driver’s License (CDL) issued by the Division of Motor Vehicles (DMV), or an equivalent license issued by another State and acknowledged by the Rhode Island DMV.
 - d. Possess a working knowledge of the English language sufficient to understand highway traffic signs and signals and communicate with passengers. Certificate holders who employ drivers who do not speak English as a “first” language, must ensure that these drivers truly have a working knowledge of the English language and, if needed, have immediate access to bilingual dispatchers. Certificate holders must also ensure that these drivers are informed and well versed in the provisions and requirements of the Division’s relevant rules and regulations before

- they operate a taxicab, limited public motor vehicle or public motor vehicle;
- e. Be familiar with the major highways, routes, streets and traffic laws of the State of Rhode Island; and
 - f. Be familiar with all Division rules and regulations regarding the transportation of passengers for hire in the applicable mode(s) of transportation the applicant will operate – taxicab, limited public motor vehicle and/or public motor vehicle.

D. Division Licensing Procedure

1. Individuals who apply for a hackney operator's license must supply to the Division the following information:
 - a. Name
 - b. Date of Birth
 - c. Address (residence *and* mailing, if applicable)
 - d. Telephone Number
 - e. Social Security Number (Disclosure is voluntary, see Appendix A)
 - f. Driver's License Number (including type and class)
 - g. Employer (if applicable)
 - h. Original certified copies of the applicant's driving record obtained from the Division of Motor Vehicles and record of all criminal convictions obtained from the Bureau of Criminal Identification (BCI) of the Department of the Attorney General. Said record checks must have been obtained by the applicant within thirty (30) days of the submission of the license application.
 - i. Proof that applicant is a citizen of the United States or otherwise legally permitted to work within the State of Rhode Island.
2. The Motor Carriers Section of the Division shall approve or disapprove all applications for a "hackney operator's license" as soon as practicable within ten (10) business days after receiving the required documentation/information. This time period may be extended for not more than thirty (30) days, for just cause, by the Division, with notice of the extension to the applicant.
 - a. A Motor Carriers Section compliance inspector shall review the entire application presented (including driving record and BCI record). If approved, the applicant will receive a Hackney Operator's License, which shall be carried at all times while operating a taxicab, LPMV or PMV. If approved, said license will be valid for one year only. Any license issued remains the property of the Division at all times and must be surrendered to the Division immediately upon request.
 - b. A Motor Carriers Section compliance inspector shall review the driving record and BCI record presented by the applicant and an individual's application shall be denied by the inspector if the applicant has been:

- i. Convicted or adjudicated of two (2) moving violations within a 2-month period during the last 36 months; or
- ii. Convicted or adjudicated of three (3) moving violations within the previous 36-month period; or
- iii. Convicted or adjudicated of three (3) non-moving violations (excluding parking tickets) within a 12-month period during the previous 36-month period; or
- iv. Involved in three (3) accidents within the previous 24-month period; or
- v. Convicted or adjudicated of an alcohol-related offense within the previous five (5) years; or
- vi. Convicted of a traffic offense in District Court within the previous five (5) years; or
- vii. Convicted of a misdemeanor within the previous one (1) year or a series of misdemeanors within the previous five (5) years; or
- viii. Convicted of a felony within the previous ten (10) years.

Providing false or incomplete information on an application shall result in automatic denial of application.

- c. If an application is denied by an inspector, the applicant may first request that the Associate Administrator of the Motor Carriers Section reconsider the application. The applicant shall write a letter to the Associate Administrator, in which the applicant requests reconsideration and offers a satisfactory explanation for the circumstances that warranted the initial denial. Upon reconsideration, the Associate Administrator may:
 - i. Issue a license without restrictions
 - ii. Issue a license with probationary restrictions
 - iii. Uphold the denial
- d. If the Associate Administrator upholds the denial or proposes to issue a license with probationary restrictions, the applicant may request a full reconsideration hearing before a Division hearing officer by sending a letter addressed to the Administrator. At said hearing, the applicant shall be given notice and an opportunity to be heard and maintains the right to be represented by counsel at his/her own expense.

E. Conduct of Taxicab Drivers

- 1. All drivers issued a hackney operator's permit must conduct themselves in a courteous and professional manner at all times while on-duty.
- 2. All **taxicab drivers** issued a hackney operator's license must conduct themselves in accordance with all rules and regulations promulgated by the Division regarding the regulated activities of transporting passengers. Said

rules include the instant rules as well as the Rules and Regulations Governing the Transportation of Passengers Via Taxicabs and Limited Public Motor Vehicles (“taxicab rules”) – Specifically, the following provisions of Rule H of the latter:

- a. Each driver shall place, in a Division-approved receptacle and location, his/her Division-issued hackney license.
- b. No person shall drive or be in physical control of any cab, for the purpose of carrying passengers, for a period in excess of 12 hours in any 24-hour period, unless the driving time is broken by a period of eight full hours of rest. No certificate holder or his or her agent shall knowingly permit any cab to be driven in violation of this paragraph.
- c. No cab shall be driven when it is so loaded or when there is in the front seat such number of persons as to obstruct the view of the driver to the front or sides, or to interfere with his control over the cab. No cab shall carry more adult passengers than the manufacturer’s designed capacity of the vehicle.
- d. Nothing shall be transported in any cab that will cause the interior of such cab to become soiled or offensive to passengers because of odor or appearance.
- e. Any individual who drives a cab, including a certificate holder, must report any criminal conviction or adjudicated traffic violation to the Division within five (5) business days of the conviction or adjudication. If a Division investigation reveals that the criminal conviction or adjudicated traffic violation is of such a nature that continued operation of a taxicab by said individual could constitute a danger to the public, the Division will conduct a hearing, after notice and allowing a full opportunity to be heard, to determine whether the individual’s Hackney Operator’s License should be revoked, suspended or otherwise limited. Failure to follow this rule will be sufficient grounds for revoking the certificate holder’s certificate or the driver’s operating permit.
- f. Smoking by drivers or passengers shall not be allowed in cabs at any time.
- g. Cab drivers shall not refuse a fare unless the driver fears for his/her personal safety. All passengers shall utilize safety restraints and provide and use child restraints when required by law. A cab driver must refuse a fare or terminate service if a passenger refuses to utilize safety restraints or to provide and use child restraints when required by law.
- h. All cab drivers shall be dressed in a neat, clean and professional manner. Examples of clothing which may not be considered professional include sweat pants, collarless shirts with logos and cut-off jean shorts.
- i. Solicitation and acceptance of a passenger must occur within the location named in the certificate. The vehicle’s driver may, however, provide transportation from a location not shown in the certificate only

if he or she is solicited on a roadway while discharging a passenger and may then only provide transportation to a territory named in the certificate. This section shall not prohibit a pre-requested round-trip as allowed and provided for in the Division's Rules Governing the Transportation of Passengers Via Taxicabs and Limited Public Motor Vehicles ("taxi rules").

- j. An "On-Duty"/"Off-Duty" card shall be displayed in every taxicab to allow potential passengers to determine whether the taxicab is available for hire.

3. **Disorderly Conduct:** Drivers must act in a lawful and professional manner at all times while on duty and at all times while at a taxi stand or in the general proximity to others conducting business in the taxicab industry. Further, no driver while on duty shall engage in any behavior or activity that would constitute disorderly conduct as outlined in Title 45 of the Rhode Island General Laws, and specifically R.I.G.L. §11-45-1. Such conduct shall be punishable as set forth in Rule H of these rules and any driver engaging in such unlawful acts shall be brought to the attention of the appropriate law enforcement department.

F. Maintaining Manifests

1. All cab drivers shall maintain a driver's manifest during each shift. Such manifest (or log) must be recorded, in ink, on a form approved by the Division and must include all trips made by the cab while under the driver's control. It must contain the following.
 - a. the date, driver's name, cab company and registration number;
 - b. time and mileage out at beginning of shift;
 - c. time and mileage at the end of the shift;
 - d. time and place of origin and time and place of destination of each trip;
 - e. number of passengers and fare charged for trip;
 - f. the mileage for each paid trip, as well as explanation of mileage incurred which was not incurred as the result of a paying fare;
 - g. tire inflation as recorded pursuant to rule E.1 (xi) of the Division's taxicab rules.

G. Rates and Charges

1. Every cab is required by state law and Division rule to have a calibrated, sealed and operational taximeter. Drivers may charge **only** the rate displayed on the taximeter – as well as any other approved tariff charge (i.e. extra passenger(s) beyond two, large luggage items or an officially authorized fuel surcharge).
2. Drivers are **strictly prohibited** by state law and Division rule from charging "flat rates" in which a passenger is charged a set price for a trip in which the taximeter is not utilized.
3. Drivers must furnish passengers with fare receipts upon request.

H. Conduct of Public Motor Vehicle (PMV) Drivers

1. PMV drivers are prohibited from smoking in the for-hire vehicle. (Passengers, however, shall not be prohibited by these rules from smoking in the vehicle, although each PMV certificate holder may prohibit passengers from smoking in its vehicles if it sees fit.)
2. Drivers operating a PMV for hire shall furnish passengers with an appropriate receipt or bill of lading upon request.
3. PMV drivers must have a valid “Blue Card” in his/her possession when transporting passengers for hire. (The “Blue Card” is not required, however, to be conspicuously posted in the vehicle.)
4. All passengers shall utilize safety restraints and provide and use child restraints when required by law. A PMV driver must refuse a fare or terminate service if a passenger refuses to utilize safety restraints or to provide and use child restraints when required by law.

I. Penalties For Violations

State law provides the following penalties for violations of these Rules and Regulations Governing Operators Transporting Passengers in Taxicabs, Limited Public Motor Vehicles and Public Motor Vehicles:

1. Criminal Penalties

- a. **Operation Of Taxicabs and Limited Public Motor Vehicles.** Any operator of a **taxicab** or **limited public motor vehicle** who violates any provision of these rules and regulations shall be fined not more than one hundred dollars (\$100) or imprisoned not more than sixty (60) days or both, and his or her Taxi-LPMV-PMV Operator’s License may be revoked. The violation shall be a separate and distinct offense for each day during which it shall continue. R.I. Gen. Laws § 39-14-11(a).
 - b. **Operation of Public Motor Vehicles.** Any operator of a **public motor vehicle** subject to regulation by the Division who shall be guilty of any violation of these rules and regulations shall be deemed guilty of a misdemeanor and shall, upon conviction, be subject to a fine not to exceed one thousand dollars (\$1,000) or imprisonment for a term not exceeding one year, or both, for each offense. R.I. Gen. Laws § 39-14.1-9(a).
2. **Civil Penalties.** The Administrator of the Division may, in his or her discretion, impose upon any operator of a **taxicab**, **limited public motor vehicle**, or **public motor vehicle**, who violates any provision of these rules and regulations an administrative civil penalty (fine) that shall not exceed one thousand dollars (\$1,000) per each violation of a rule or regulation, and his or

her Taxi-LPMV-PMV Operator's License may be revoked. R.I. Gen. Laws §§ 39-14-11(b) and 39-14.1-9(b).

3. **Schedule of Fines For Violations Admitted by the Driver.** The Administrator has approved the following schedule of fines for the specific violations enumerated below that will be applied when the driver chooses not to contest the allegation that he or she violated these rules. *(Violation of any rule not specifically enumerated below will result in an automatic hearing where the maximum penalty authorized by law may be imposed.)* The Division's Associate Administrator for Motor Carriers and his/her designees may issue a Notice of Probable Violation ("NOPV") for the offenses enumerated below setting out the specific fine authorized for that offense. If the driver chooses to admit the violation, he may pay the fine by money order or personal check made out to Division of Public Utilities and Carriers in the amount indicated on the NOPV and delivered to the Clerk of the Motor Carrier Section either in person or by U.S. Mail within ten (10) calendar days of the date the NOPV was issued. ***(NOTE: Cash is not accepted for payment of fines. Inspectors are not authorized to accept payment for fines in the field. All payments must be made either in person at the Division or via U.S. Mail.)*** A driver may always choose to contest the violation charged by requesting a hearing rather than paying the fine amount on the citation. Failure to pay the NOPV fine within ten (10) calendar days of the date the NOPV is issued shall be treated as a request by the driver for a hearing. ***The Division's Hearing Officer shall not be bound by this schedule of fines, but may instead recommend whatever fine he or she feels is appropriate based on the evidence taken at the hearing; the fine imposed at the hearing may be greater than, or less than, the amount set out in this schedule.***

- a. The fine(s) prescribed for the violations listed below shall be as follows to drivers of taxicabs and LPMVs:
- i. First offense, twenty-five dollars (\$25); second offense, fifty dollars (\$50); third offense, mandatory fitness hearing for the following:
- (a) Rate card not properly displayed
 - (b) Active hackney license not properly displayed
- ii. First offense, fifty dollars (\$50); second offense, one hundred dollars (\$100), third offense, mandatory fitness hearing for the following:
- (a) Manifest (driver log) not in compliance
 - (b) Receipts not filled out properly
 - (c) Vehicle overloaded
 - (d) Smoking in vehicle (by either driver or passenger)
 - (e) Child restraint seat not utilized
 - (f) Driver not properly dressed

iii. First offense, one hundred dollars (\$100); second offense, two hundred dollars (\$200), third offense, mandatory fitness hearing for the following:

(a) Disorderly conduct at a taxi stand and/or while on duty as a cab driver.

iv. Any rules infraction or violation of applicable state law not outlined in subparagraphs “i”, “ii” and/or “iii” above shall result in a mandatory hearing before a Division hearing officer.

b. The fine(s) prescribed for the violations listed below shall be as follows to drivers of PMVs:

i. First offense, fifty dollars (\$50); second offense, one hundred dollars (\$100); third offense, mandatory fitness hearing for the following:

(a) Active “Blue Card” not in driver’s possession

(b) Failure to provide appropriate receipts

(c) Child restraint seat not utilized

(d) Smoking in vehicle (by driver)

J. Complaints

1. Any person may file a complaint with the Division regarding a violation of these rules and regulations. Complaints should be in writing and signed by the complainant stating the complainant’s address and telephone number and either mailed or hand-delivered to the Division of Public Utilities and Carriers, 89 Jefferson Blvd., Warwick, Rhode Island, 02888. Nothing in this rule should be construed to prevent the Division from instituting an investigation or proceeding based upon an oral complaint or upon information developed in any other manner.

2. If the Division determines that a complaint alleges facts which constitute a violation of Division rules and regulations, the Division shall notify in writing the particular driver of the nature of the complaint. An answer must be filed by the driver with the Division within ten (10) days following the date of the notice of the complaint. Upon receiving such answer(s), the Division shall notify the complainant of the contents or nature of the answer(s) and shall take whatever action deemed appropriate to resolve the complaint.

3. If the Division determines that the facts as alleged in any complaint are clearly not in violation of Division rules and regulations, the complainant shall be so notified and no further action will be taken.

4. However, when the Division finds that a satisfactory response is not made to the notification of the complaint, or when no response is made to a complainant, or when the facts clearly warrant, a hearing shall be conducted by the Division

concerning the complaint. The Division shall send written notice to all parties consistent with Section K of these rules and regulations.

5. Failure of the driver to appear before the Division for a scheduled hearing may result in a suspension or revocation of the driver's Hackney License. Failure of the complainant to appear for a scheduled hearing may result in dismissal of the complaint.

K. Notice

1. The Division shall give notice of the commencement of a scheduled hearing in any pending matter to all parties and to such other persons as the Division designates.

2. Notice shall be by first class mail or personal service unless otherwise specified by the Division. The Division shall give at least ten (10) calendar days written notice of the hearing unless the hearing officer determines that less notice is reasonable. Nothing, herein, however, shall limit the power of the Division to order notice by other means, including but not limited to notice by publication.

3. Unless notice to the contrary has been received by the Division, notices shall be sufficient if mailed or delivered to the following:

- a. If the addressee is a Hackney License holder, the address shown on the last application for the issuance thereof.
- b. If an attorney has entered an appearance on behalf of the addressee, to the office of the attorney
- c. The latest change of address notice on file with the Division.