



A BILL FOR AN ORDINANCE

RELATING TO TAXICABS.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Purpose. The purpose of this ordinance is to amend the regulation of taxicabs within the City and County of Honolulu. This ordinance updates the regulation of taxicabs within the City and County of Honolulu to address recent developments in the industry and strengthen consumer protections and expands the definitions of "taxicabs" and "taxicab companies."

SECTION 2. Section 12-1.1, Revised Ordinances of Honolulu 1990 ("Purpose—Scope—Definitions"), is amended by amending subsection (b) to read as follows:

"(b) As used in this article, unless the context otherwise requires:

"Council" means the council of the City and County of Honolulu.

"Cruising" means the movement or standing of a taxicab on a public highway or at a public place, for the purpose of searching for or soliciting a passenger for hire.

"Director" means the director of customer services of the city, or the director's duly authorized subordinates.

"Jitney services" means the same as defined in HRS Section 271-5.

"Lay-up fee" means a fee charged to passengers for hire for the time period that a taxicab cannot be used as a result of the discharge of bodily fluid or spillage of food or drink by that passenger for hire within the taxicab.

"Passenger for hire" means a person transported in a [taxicab] motor vehicle for consideration[.]; provided that the consideration paid is:

- (1) Determined based on either:
 - (A) The distance travelled; or
 - (B) In whole or in part, a combination of the distance travelled and the time taken for travel; and
- (2) Not an active tariff approved by the public utilities commission of the State of Hawaii for the taxicab owner transporting a person in the taxicab.



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"Property for hire" means property transported in a taxicab for consideration.

"Road taxi stand" means a space set aside on a public street or city-controlled facility by the council for the exclusive use of taxicabs.

"Shared-ride taxicab" means a taxicab utilized in transporting passengers to and from unrelated locations, which locations may be other than terminals or fixed stands.

"Taxicab" means a motor vehicle, operated by a [taxicab] driver, [which is] that:

- (1) Is used in the movement of passengers for hire on the public highways [and which is];
- (2) Is directed to a destination by the passenger for hire or on the passenger's behalf [and which operates]; and
- (3) Operates on call or demand.

"Taxicab company" means any person or entity [which holds] that:

- (1) Holds licenses for one or more taxicabs[, leases];
- (2) Leases motor vehicles to drivers to be used or operated as taxicabs[, or which operates];
- (3) Operates a central dispatch service for one or more taxicabs[.]; or
- (4) Functions as an intermediary between the passenger for hire and the taxicab or taxicab driver, and receives a portion of the consideration paid by the passenger for hire for the transportation provided, regardless of whether the intermediary performs its function entirely or in part using any form or type of technology.

"Taxicab driver" means a person duly licensed as a driver of a motor vehicle who has obtained a valid taxicab driver's certificate[.] issued by the city.

["Total stoppage" means the complete halting of bus transportation service furnished by a public bus system, resulting from a labor strike and/or a disaster.]

"Waiting time" means the period during which a taxicab is standing at the direction of or on behalf of a passenger for hire and the time consumed due to traffic delays while transporting a passenger for hire, which time is automatically computed by



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the taximeter when the speed of the vehicle falls at or below the speed at which the fare computed using the basic distance rate is equal to the fare computed using the basic time rate."

SECTION 3. Section 12-1.3, Revised Ordinances of Honolulu 1990, is amended to read as follows:

"Sec. 12-1.3 Director of customer services--Authority.

- (a) Enforcement, Denial, Suspension or Revocation of Taxicab Driver's Certificate. The director is authorized to enforce this article as provided herein and deny initial issuance or renewal of or suspend or revoke any taxicab driver's certificate if an applicant cannot meet the requirements set forth in Section 12-1.9(c)[, as amended,] or a taxicab driver violates any of the provisions contained in this article. [Any] An applicant or taxicab driver [shall] must be afforded an opportunity for a hearing if a certificate is denied, suspended, or revoked by the director pursuant to the provisions of HRS Chapter 91.
- (b) Rule-Making Powers. The director [is authorized to] may adopt rules [or regulations], not inconsistent with this chapter, having the force and effect of law, as provided for in HRS Chapter 91, [in] for the administration and enforcement of this chapter.
- (c) The director may examine the records of any taxicab driver or taxicab company with respect to compliance with this article. The director, upon notice and hearing pursuant to HRS Chapter 91, may temporarily suspend or revoke the license of any taxicab driver who fails to cooperate with the director in any examination conducted by the director.
- (d) Subpoena, Oaths and Testimony. In addition to any other powers and duties authorized by law, in connection with any investigation or proceeding related to the enforcement of this article, the director may compel the attendance of witnesses upon subpoena, administer oaths, and take testimony.
- (e) Injunction. Whenever it appears to the director that any person has engaged or is about to engage in any act or practice constituting a violation of this article, the director may in the director's discretion bring an appropriate action in any circuit court of the State to enjoin the acts or practices or to otherwise enforce this article."

SECTION 4. Section 12-1.4, Revised Ordinances of Honolulu 1990, is amended to read as follows:



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"Sec. 12-1.4 Prohibited acts.

- (a) Backing From and Into a Taxi Stand. No person shall back a taxicab from a taxi stand onto a public highway. No person shall back a taxicab from a public highway into a taxi stand where it is otherwise legally possible to maneuver such taxicab so as to thereafter emerge from said taxi stand without backing onto the highway.
- (b) Intoxicating Liquor. Intoxicating liquor, as defined by HRS Section 281-1, as amended, [shall] must not be carried in any taxicab during the business hours of such taxicab, except as the property of a passenger for hire riding in said taxicab, or as property for hire.
- (c) Responding to Calls. The operator of a taxicab or taxicab company shall not refuse to furnish an unengaged, available taxicab and driver during the business hours of such taxicab or taxicab company upon call or request from an orderly person located within two miles of such stand, by the most direct street route. No taxicab driver, while on duty and not engaged in another call, shall fail to drive an available taxicab in response to a call or request from an orderly person.
- (d) Additional Passengers. Except as provided in Section 12-1.24 relating to shared-ride taxicab service, additional passengers shall not be picked up without the consent of all the passengers for hire, already in the taxicab. The fare of the additional passengers for hire [shall] must be based upon a new taximeter reading from the point of departure of the last departing passenger for hire to the destination of the additional passengers for hire.
- (e) Kickbacks.
 - (1) Taxicab companies and drivers are prohibited from paying kickbacks to hotel doormen or other persons that dispatch taxicabs. It [shall also be] is also unlawful for a hotel doorman or other person to solicit or receive such a kickback from a taxicab company or [taxi] taxicab driver. This provision [shall] does not apply to legitimate commissions paid to tour and travel companies, legitimate payments to taxicab companies or salaries or wages paid to dispatchers employed by taxicab companies.
 - (2) For the purpose of this subsection, "kickback" means a payment by a taxicab company or driver to a hotel doorman or other person who dispatches the taxicab company or driver to carry a passenger for hire, property for hire or both, when the payment is required, explicitly or



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implicitly, by the hotel doorman or other person as consideration for the dispatch.

(f) Certificate and License Required. It is unlawful for any person to operate, or for the registered owner thereof to permit to be operated, or for any person to dispatch, a taxicab within the city, unless:

(1) The operator of the taxicab has a current taxicab driver's certificate; and

(2) The taxicab has a current taxicab license,

issued by the city pursuant to this article."

SECTION 5. Section 12-1.8, Revised Ordinances of Honolulu 1990 ("Taximeters"), is amended by amending subsections (b) and (c) to read as follows:

"(b) The specifications, tolerances, and other technical requirements relating thereto shall be as established by the state [division of weights and measurements.] department of agriculture's measurement standards branch, and such devices will be subject to approval, certification, and inspection by the measurement standards branch. The operation, visibility, lighting, and inspection of taximeters will conform to all applicable state and county laws [or regulations.] and rules. Use of a global positioning system (GPS) device to measure distance for the purpose of calculating fares is prohibited.

(c) Inspection. No driver, owner or operator of a taxicab or taxi stand shall use or cause to be used a taxicab for purposes of hire before the taximeter, installed therein, has been inspected for accuracy in accordance with all applicable state and county laws and [regulations.] and rules."

SECTION 6. Section 12-1.9, Revised Ordinances of Honolulu 1990 ("Taxicab driver's certificate"), is amended by amending subsection (c) to read as follows:

"(c) No taxicab driver's certificate [shall] will be issued to any person unless such person has:

(1) A valid State of Hawaii driver's license;

(2) One year of driving experience prior to operating a taxicab;

(3) Satisfactorily passed an examination showing:



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- (A) A sufficient understanding of the traffic laws or ordinances, and this article[.];
- (B) A sufficient understanding of the locations of streets, roads, highways and significant landmarks within the [City and County of Honolulu,] city; and
- (C) A sufficient understanding of the English language;
- (4) Complied with the standards promulgated by the director relating to moral character and physical fitness of the applicant based on prior records or certified documents relative thereto; [and]
- (5) Received a taxicab driver's control number from the department. This control number [shall] must be shown on the taxicab driver's certificate along with the driver's name and the name and telephone number of the company with which the driver is affiliated. Other personal information [shall] must be shown on the back of the taxicab driver's certificate. The taxi driver shall notify the director, the insurance company, and the taxi company with [whom he or she] which the taxi driver is affiliated, of every change to [his or her] the taxi driver's current telephone number or address, within 30 days of such change; [and]
- (6) Submitted [a photograph] one or more photographs of the person taken no more than 30 days prior to submission of the person's application. The director shall specify by rule the number of photographs and the size of the photograph or photographs required; and
- (7) Complied with all applicable city, State of Hawaii, and federal laws."

SECTION 7. Section 12-1.10, Revised Ordinances of Honolulu 1990, is amended to read as follows:

"Sec. 12-1.10 Director to [establish rate of fare and baggage charge--Exceptions--Conditions-- Receipt] establish fares, fees, and baggage charges—Exceptions—Conditions— Receipt required upon request[.]—Cleaning fees—Optional surcharges.

- (a) The [maximum] director shall adopt rules to establish the fares, fees, and [baggage] charges that may be charged to passengers for hire of taxicabs [shall be established by the director. The fares and charges shall be established by rules adopted by the director.]; provided that a taxicab company may file a tariff



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with the director for rates that are no more than 20 percent higher than the director's established rates, and such rates automatically will become effective upon the later of the effective date specified in the tariff or 15 days after the date of filing of the tariff with the director. The fares, fees, and charges may vary for different types and ages of vehicles and may include any costs of doing business, including fees and taxes imposed by governmental entities. All fares, fees, and charges must be shown on the driver's rate card. The fares and charges [shall] must be reviewed by the director at least once every two years following January 1, 1992 and [shall] must be amended, as necessary, to reflect changes in the private transportation component of the consumer price index for Honolulu, as determined by the U.S. Bureau of Labor Statistics; provided, that the director may amend the fares and charges more frequently than once every two years if deemed necessary.

- (b) In addition to the fares and charges established in subsection (a), the director may establish a fuel surcharge for taxicab operators to be charged to passengers[.] for hire. Every six months, the director shall determine whether a fuel surcharge should be established based on any increase in the base amount and the average fuel prices. Any fuel surcharge [shall] must be established by rules adopted by the director pursuant to HRS Chapter 91.
- (c) The fares or charges established pursuant to this section [shall be] are subject to the following exceptions or conditions, whichever the case may be:
- (1) **When Fares or Charges Permitted.** Fares are only applicable to the use of the taxicab when actually occupied by or standing at the direction of the passenger for hire or when occupied by parcels or baggage transported for hire; provided, that no other charges [shall] are to be [made] assessed for the use of a taxicab for hire except as provided herein.
 - (2) **Posting of Fares and Charges.** The schedule of fares and charges established pursuant to this section [shall] must be printed in bold type letters, not less than three-sixteenths of an inch in height, posted within 12 inches of the taximeters and readily visible to all passengers for hire.
 - (3) **Exceptions and Conditions for Use of Fares and Charges Lower Than Those Established.** A taxicab driver or taxicab company may adjust the meters on a taxicab so that a lower fare or charge may be assessed than those established pursuant to this section; provided, that if a taxicab driver or taxicab company owns or operates more than one taxicab, all of the taxicabs [shall] owned or operated by the company must have their taximeters adjusted to the lower fare or charge; and provided further, that



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such lower fare or charge [shall] must be posted as prescribed in [paragraph] subdivision (2). The taxicab driver or taxicab company may waive the baggage charges established pursuant to this section.

- (4) This section [shall] is not to be construed to preclude a taxicab driver or taxicab company from charging a passenger less than the amount due indicated by the taximeter.
- (5) The fares for shared-ride taxicab service [shall be] are to be established by the tariff filed under Section 12-1.24, rather than the fares and charges established pursuant to this section.
- (d) Receipt Required upon Request.
- (1) At the end of the taxicab trip, the operator shall, upon request, provide at least one passenger for hire with a receipt that records the following information: origin, destination, time and date of the taxicab service; all fares and charges; the name of the taxicab operator, printed or written so that it is legible; the printed name and telephone number of the taxicab company; a telephone number, as designated by the director, to call for the filing of complaints; and any other information deemed necessary by the director.
- (2) All taxicab receipt forms [shall] must be approved by the director before use by a taxicab company.
- (e) Fees for Cleaning and Repairs. A taxicab driver, owner or operator, or taxicab company may charge a passenger a reasonable fee for cleaning, sanitation, and repair costs, together with a reasonable lay-up fee, for a taxicab resulting from the discharge of bodily fluid or spillage of food or drink by the passenger within the taxicab.
- (f) Optional Surcharges. A taxicab driver, owner or operator, or taxicab company may charge a passenger a higher fare than the regular fare displayed on the driver's rate card, website, or application that the passenger uses to order the transportation service for night trips (between the hours of 10:00 p.m. and 5:00 a.m.), special events, and State holidays; provided that the optional surcharges are shown on the driver's rate card and does not exceed twice the rate of the regular fare. A taxicab driver or taxicab company may refuse to provide transportation service to a passenger if the passenger does not agree to pay any such optional surcharges."



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SECTION 8. Section 12-1.11, Revised Ordinances of Honolulu 1990, is amended to read as follows:

"Sec. 12-1.11 Special operations.

Notwithstanding any provision contained [herein] in this article to the contrary, any taxicab operator may operate [his/her] a taxicab [as a] to conduct jitney [during a public bus service total stoppage subject to the following:

- (a) The fare per passenger shall be no more than twice the current per trip adult city bus fare;
- (b) The taxicab operator may operate the taxicab as a jitney only along existing public bus service routes; provided, that the director is authorized to add new jitney routes in addition to the routes mentioned in this section whenever the director has sufficient evidence that the public, utilizing the public transit service, is desirous of having such additional jitney routes for their convenience;
- (c) There shall be prominently displayed on the taxicab being operated as a jitney a sign reading "jitney" and indicating the fare per passenger, which shall be facing outward so it shall be visible by potential passengers and such signs shall be furnished by the director;
- (d) The loading or unloading of passengers shall take place only at established public bus service bus stops along the routes prescribed herein;
- (e) A baggage fee may be assessed during jitney operations according to the fee for baggage established pursuant to Section 12-1.10.] services."

SECTION 9. Section 12-1.16, Revised Ordinances of Honolulu 1990, is amended to read as follows:

"Sec. 12-1.16 Taxi sign.

A taxicab [shall] must be identified with a sign (which may be a dome light sign) on the roof of the taxicab. The name of the individual owning or operating the taxicab or the name of the [firm shall] taxicab company must be shown on the front of the sign and it will be optional to place either the name or telephone number of such individual or [firm] company on the rear of the sign. Such sign may have flashing actuators. A taxicab driver may actuate such sign to call for police or other assistance in cases when a robbery is in progress. The use of a flashing dome light, except to signal when a robbery is in progress, [shall be in] is a violation of Section 15-19.22[, traffic code of the



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City and County of Honolulu. Except as provided herein, the type, design and placement of the sign shall be as specified by the director]. The sign may be a detachable type so that it may be removed when the vehicle is not used for taxicab purposes."

SECTION 10. Section 12-1.17, Revised Ordinances of Honolulu 1990, is amended to read as follows:

"Sec. 12-1.17 Violation [Penalty.]—~~Penalties--Towing.~~

- (a) Criminal Penalty. Any person [violating any] who knowingly accepts moneys for the transportation of passengers for hire in violation of the provisions of this article [shall] or any rule adopted under this article, or any taxicab driver or taxicab company that knowingly fails to comply with the provisions of this article or any such rule and continues to accept moneys for the transportation of passengers for hire in violation of the provisions of this article or any such rule, will, upon conviction thereof, be subject to a fine not exceeding [\$1,000.00] \$2,000 or imprisonment for a period not exceeding one year or to both such fine and imprisonment. Each day that any violation continues will be deemed a separate and distinct offense.
- (b) Administrative Fine.
- (1) In addition to any other remedy provided by this article, if the director determines that any person is violating any provision of this chapter, any rule adopted thereunder or any permit issued pursuant thereto, the director may have the person served, by mail or delivery, with a notice of violation and order pursuant to this subsection.
- (2) Contents of the Notice of Violation. The notice must include at least the following information:
- (A) Date of the notice;
- (B) The name and address of the person noticed;
- (C) The section number of the provision or rule, or the number of the permit which has been violated;
- (D) The nature of the violation; and
- (E) The location and time of the violation.



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(3) Contents of Order.

(A) The order may require the person to do any or all of the following:

(i) Cease and desist from the violation;

(ii) Correct the violation at the person's own expense before a date specified in the order;

(iii) Pay an administrative fine of no less than \$500 and no more than \$2000 in the manner, at the place and before the date specified in the order;

(iv) Pay an administrative fine of no less than \$500 per day and no more than \$2000 per day for each day in which the violation persists, in the manner and at the time and place specified in the order.

(B) The order must advise the person that the order will become final 30 days after the date of its mailing or delivery. The order must also advise that the director's action may be appealed to the department of customer services.

(4) Effect of Order--Right to Appeal. The provisions of the order issued by the director under this section shall become final 30 days after the date of the mailing or delivery of the order. The person may appeal the order to the department of customer services.^[LA1] Upon receipt of an appeal, the department of customer services shall refer the appeal to a hearing officer. The hearing officer shall:

(A) Hold an agency hearing in accordance with the contested case procedures of HRS Chapter 91; and

(B) Issue a decision and order confirming, modifying, or disapproving the department of customer services' action.

However, an appeal to the department of customer services shall not stay any provision of the order.

(5) Judicial Enforcement of Order. The director may institute a civil action in any court of competent jurisdiction for the enforcement of any order issued pursuant to this subsection. Where the civil action has been instituted to



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enforce the administrative fine imposed by said order, the director need only show that the notice of violation and order were served, that an administrative fine was imposed, the amount of the fine imposed, and that the fine imposed has not been paid.

- (c) Towing of Motor Vehicles. In addition to any other applicable penalty, the use of any motor vehicle for the transportation or the solicitation for the transportation of passengers for hire in violation of the provisions of this article is deemed to be a traffic violation and the motor vehicle so used will be subject to towing as provided in HRS Section 291C-165.5. In addition to any other penalties imposed on an owner of record of any motor vehicle that is used in the transportation or the solicitation for the transportation of passengers for hire for violating the provisions of this article, the owner of record will also be responsible for any towing and storage fees applicable under HRS Section 291C-165.5. This subsection does not apply to any motor vehicle that was stolen at the time of the violation if the theft thereof was reported to the police within 24 hours after the theft was discovered or reasonably should have been discovered. Whenever a police officer has probable cause to believe that a motor vehicle is subject to towing pursuant to this subsection, the police officer may order the towing of the motor vehicle in accordance with HRS Section 291C-165.5.
- (d) Remedies Cumulative. Unless otherwise expressly provided, the remedies or penalties provided by this article are cumulative to each other and to all other remedies or penalties provided by law."

SECTION 11. Section 12-1.25, Revised Ordinances of Honolulu 1990, is amended to read as follows:

"Sec. 12-1.25 Loading and unloading passengers.

Notwithstanding any provision in Chapter 15 to the contrary relating to the prohibition of parking, stopping, standing, loading or unloading in tow zones, taxicabs may load or unload passengers for hire or property for hire in such tow zones; provided that such loading or unloading [shall] does not exceed 30 seconds[.] or such longer period of time as reasonably may be required to accommodate passengers with special needs, such as disabled passengers, children, or passengers with baggage or strollers."

SECTION 12. Ordinance material to be repealed is bracketed. New material is underscored. When revising, compiling, or printing this ordinance for inclusion in the Revised Ordinances of Honolulu, the revisor of ordinances need not include the brackets, the bracketed material or the underscoring.



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SECTION 13. Any "regulation" adopted pursuant to Chapter 12, Article 1, Revised Ordinances of Honolulu, prior to the effective date of this ordinance, shall be deemed a "rule" for purposes of that article.

SECTION 14. This ordinance takes effect upon approval

INTRODUCED BY:

[Handwritten signature: M. Kikuyasu]

DATE OF INTRODUCTION:

DEC 04 2015

Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Deputy Corporation Counsel

APPROVED this _____ day of _____, 20__.

KIRK CALDWELL, Mayor
City and County of Honolulu