



NOT FOR-HIRE

How Non-Compliance by For-Hire Companies & Lack of Enforcement by the TLC are Failing Wheelchair Users.



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Executive Summary

FOR-HIRE CAR COMPANIES ARE INTEGRAL TO NEW YORK CITY'S TRANSPORTATION INFRASTRUCTURE, particularly in the outer boroughs where residents often rely on these services to compensate for poor mass transit connections. Recognizing that 60,000 New Yorkers use wheelchairs, the TLC passed new rules in 2001 that assigned for-hire vehicles (FHV) with the obligation to provide equivalent services to customers using wheelchairs (TLC Rule 6-07(f)). As written, the rule is a one-size-fits-all policy for a diverse industry that does not operate under a uniform business model.

This rule was to be effective October 31 2001, but the events of September 11 2001 resulted in the implementation of accessible services to be deferred until January 30 2004¹ for community (livery) cars and luxury limousines. For black car bases implementation was similarly delayed to September 30 2002. The for-hire industry has been given adequate time to comply with TLC Rule 6-07(f), yet the for-hire vehicle industry does not want to or cannot comply with the rule as written.

As of September 2009, the TLC listed 495 licensed livery companies and 68 black car companies on its website. The TLC website directs riders searching for accessible for-hire vehicles to two spreadsheets of licensed livery and black car services from these lists, which were last updated on October 15 2006.²

For this report, a study was conducted from September to November 2009 in which all of these companies were called and asked to verify their compliance with the rule requiring the provision of services to customers using wheelchairs. Follow-up calls were made to those companies that confirmed that they could provide accessible service in order to determine if the service offered was equal to the service offered to a non-wheelchair using customer.

In the initial compliance calls 40% of livery car companies and 43% of black car companies said that they would be unable to provide any services for a wheelchair user.

The vast majority of the companies that stated they were able to provide services did so through a small number of legitimate third-party contactors while others claimed to provide third-party services through Access-A-Ride or through an ambulette service, in violation of TLC rules.

Of the livery car companies that claimed to offer wheelchair accessible service, only 4% quoted trips at an equivalent rate to what the company said it would charge for the same trip for a non-wheelchair user, and in a reasonable time. Not one black car company offered equal rates and a reasonable time. The differential in rates was often extreme. Livery car bases charged an average of \$37 more for the provision of accessible service than for a non-wheelchair user. Black car bases charged an average of \$109 more.

Price is only one measure by which the TLC measures adherence to its “service equivalency requirement” and this study also found unreasonable and inequitable disparities in areas such as a delay in response time, disparate availability, and other restrictions.

According to the TLC, there had not been any record of for-hire base violations, because the TLC had not enforced any penalty for non-compliance with rule 6-07(f). While rule 6-07(f) has been in effect since January 30, 2004, the TLC stated that it would begin enforcing penalties for non-compliance with rule 6-07(f) in December of 2009. It has been six years since rule 6-07(f) has been in effect, yet the TLC has just now begun to look at enforcement.

Rule 6-07(f) in its current form does not provide reliable accessible transportation. Though non-enforcement is partly to blame, the rule itself poses serious problems for both riders and for-hire bases. For-hire bases contracting with accessible providers results in extreme price gouging and unreasonable wait times for riders. Equal services cannot be provided for riders when for-hire bases are forced to contract with providers that charge a higher rate for accessible cars. This places a financial burden on these bases, leading to unreliable service and unreasonable costs for riders. Rule 6-07(f) must be closely examined to address this flaw. Ultimately, it is clear that more for-hire bases that currently own large black car or livery fleets must also be required to own their own accessible vehicles in order to provide reliable accessible transportation.



1 New York City Taxi and Limousine Commission (2008, November 5) *For-Hire Vehicles Must Comply With Wheelchair Accessibility Rule as of January 30, 2004* [WWW document] HTML http://www.nyc.gov/html/tlc/html/news/ind04_01.shtml

2 New York City Taxi and Limousine Commission (2008, September 22) *Wheelchair Accessibility Rule Implementation* [WWW document] HTML http://www.nyc.gov/html/tlc/html/wheelchair/base_listing.shtml

Background

THE APPROXIMATELY 60,000 WHEELCHAIR USERS LIVING IN NEW YORK CITY and untold numbers of wheelchair-using tourists have a difficult time securing transport. A wheelchair user looking for a for-hire-vehicle (a scheduled transportation option, not a street-hailed yellow cab) who calls 311 or visits the TLC's website would be directed to a daunting list of 495 livery car companies and 68 black car companies—all of which are purported to provide services to wheelchair users as per TLC Rules.

For-hire vehicle bases are granted licenses in three different categories: community (livery) cars, black cars, and luxury limousines. Livery car bases are typically for personal travel while black car bases mostly cater to corporate accounts. All for-hire vehicle company types are similar in that vehicles are dispatched from a base operator, from whom the fare is quoted, availability is confirmed, and the trip is reserved.

According to a fact sheet provided by the TLC website from 2009, there are currently 30,110 affiliated livery and black car for-hire vehicles on the road today.¹

On October 31 2001, the TLC adopted TLC For-Hire Vehicle Rule 6-07(f) making base owners “responsible for providing service to persons with disabilities.” Base owners have two ways to fulfill this requirement:

- (1) dispatching an affiliated accessible vehicle, upon request; or
- (2) arranging for the dispatch of an accessible vehicle affiliated with another licensed base, upon request, if the base owner has entered into a contractual or other arrangement with such base for the provision of accessible vehicles to persons with disabilities.

Whichever option the base owner chooses, the TLC’s rules have a standard that must be met for “equivalent service.” A number of characteristics must be demonstrated as “equivalent” to how service is delivered to people not using wheelchairs “when viewed in its entirety” in order for the standard to be met, including²:

- (a) Response time to requests for service;
- (b) Fares charged;
- (c) Hours and days of service availability;
- (d) Ability to accept reservations;
- (e) Restrictions based upon trip purpose;
- (f) Other limitations on capacity or service availability.

The rule also goes on to define the term “accessible vehicle” to mean a vehicle in compliance with the accessibility requirement of the Americans With Disabilities Act (ADA) of 1990, and also that “[i]t may not be a paratransit vehicle or ambulette as defined by Chapter 4 of the Commission Rules. Moreover, the vehicle may not bear external markings, other than those required by the ADA or other applicable law, identifying it as an accessible vehicle. For instance, the vehicle cannot be marked ‘invalid coach.’”³ The rule does not differentiate between fleets who own their vehicles and those that contract with individual drivers or owners.

According to an industry notice from January 2 2004, the TLC postponed implementation of Rule 6-07(f) for all livery car services and luxury limousine services to January 30, 2004 from its original enactment on October 31, 2001 due to the events of September 11 2001. Implementation of the rule for black car companies was similarly pushed back to September 3 2002⁴.

Although implementation of rule 6-07(f) was supposed to be effective January 30 2004, there has been no penalty for not complying with this rule until recently. Furthermore, the TLC said that they have not even been issued any violations, but rather have been focused on education rather than enforcement. The TLC has now said that they are conducting monthly checks of bases to ensure compliance. If bases are not in compliance, violations are issued with possible monetary and license suspension penalties. It is not clear when these monthly checks and issuing of violations began, since the TLC most recently explained that it was still engaged in its education of bases about compliance with rule 6-07(f).

1 New York City Taxi and Limousine Commission (2008, October 25) *Understanding the For-Hire Vehicle Industry** [WWW document] PDF http://www.nyc.gov/html/tlc/downloads/pdf/fhv_base_fact_sheet.pdf

2 New York City Taxi and Limousine Commission (2008, September 23) *For Hire Vehicle Rules* [WWW document] PDF <http://www.nyc.gov/html/tlc/downloads/pdf/fhvrules.pdf#07f>

3 New York City Taxi and Limousine Commission (2008, October 15) *Wheelchair Accessibility FAQ* [WWW document] HTML <http://www.nyc.gov/html/tlc/html/faq/wheelchair.shtml>

4 New York City Taxi and Limousine Commission (2008, November 2) *For-Hire Vehicle (FHV) Bases Must Comply with Wheelchair Accessibility Rule as of January 30, 2004* [WWW document] HTML http://www.nyc.gov/html/tlc/html/news/ind04_01.shtml

LIVERY PASSENGER'S BILL OF RIGHTS

The Livery Passenger's Bill of Rights states that passengers are entitled to¹:

- Ride in a car that is clean, in good condition, and has passed all required inspections;
- Be driven by a TLC-licensed driver in good standing whose license is clearly displayed;
- A safe and courteous driver who obeys all traffic laws;
- A quiet trip, free of horn-honking and audio/radio noise;
- Receive a fare quote from the dispatcher and pay that amount for your ride (unless the trip changes);
- A driver who does not use a cell phone while driving (hands-free phones are not permitted);
- A smoke and scent free ride;
- Air-conditioning or heat on request;
- Working seatbelts for all passengers – please use them!
- Not share a ride, unless you want to;
- Be accompanied by a service animal;
- Decline to tip for poor service.

Nowhere does the Bill of Rights mention the right to an accessible vehicle with equivalency in service. Excluding this from the passenger's bill of rights marginalizes the 60,000 wheelchair users in New York City, and along with non-enforcement of rule 6-07(f) raises serious questions as to the commitment to service equivalency.

¹ New York City Taxi and Limousine Commission (2008, November 14) *Livery Passenger's Bill of Rights* [WWW document] HTML http://www.nyc.gov/html/tlc/html/passenger/livery_rights.shtml

Methodology & Findings

BETWEEN SEPTEMBER 22 2009 AND NOVEMBER 22 2009, ALL TLC-LISTED LIVERY AND BLACK CAR COMPANIES WERE CALLED TO DETERMINE COMPLIANCE TO TLC RULE 6-07(F). The study did not include the third category of for-hire vehicles, luxury limousine companies. Initial calls were made to determine whether or not the listed company offered services to people using wheelchairs.

The following call script was used:

Hello, my name is Jean and I am calling from Assembly Member Micah Kellner's office. We are conducting a survey about wheelchair accessibility. Can you currently provide a wheelchair accessible car to a customer?

If NO: Thank you for your time.

If YES: Do you own these cars or are you contracted or affiliated with a company that provides them?

If CONTRACTED: Can you tell me that name of that company?

A second round of calls was made to the companies that said they were able to provide wheelchair accessible services, either with their own cars or through an affiliated or contracted company.

The following call script was used:

Hello, I am calling to schedule a car for Lagoon Airport, and I need the car to be wheelchair accessible—the wheelchair must fit inside the car. Can you help me with that?

If YES: How much will the trip cost? If I was able to take a town car instead would, the price be the same?

Can I schedule right away? [Record any additional advance notice required or other restrictions.]

Findings → Community (“Livery”) Car Companies

The initial survey size for community car companies was 495; however, 147 of the companies listed by the TLC had disconnected or wrong numbers, were duplicates in the TLC list, did not respond after two or more calls, refused to participate, or hung up on the surveyor. It is likely that many of the 26 companies that refused did not want to participate due to noncompliance. Of the remaining 348 livery companies surveyed, 109 stated that they do not own wheelchair accessible cars and were not affiliated with or do not have a contract with a company that provides these services.

225 stated that their companies do not own wheelchair accessible cars but were affiliated or contracted with a company that does. 152 stated that they contract with the same four wheelchair accessible providers: Ahava Access Inc, Vega Transportation, Vincent Limousine, and A Ride for All. Calls to these four providers revealed that they own the following number of vehicles: A Ride for All LLC (9), Vega Transportation (30), Vincent Limousine (2), and Ahava Access Inc (“around 20”)—meaning that 61 accessible vehicles are contracted to 152 livery car companies. 17 stated that they contract with an ambulette provider, in violation of TLC rules. 29 companies said that they did not know the name of the company they contracted with or did not want to release this information to the surveyor.

Only 14 of the companies surveyed stated that they currently own a wheelchair accessible vehicle. Together these companies own a total of 73 accessible vehicles. Two of these companies, Apple Transportation (12 vehicles) and Windsor Ambulette (30 vehicles), provide predominately ambulette services. 2 companies said that their wheelchair accessible cars were currently not in service.

The 239 companies which presented themselves as compliant with TLC Rules (the combined total includes the 225 companies that have contracts and the 14 that own their own vehicles) were called on a separate day to attempt to book a reservation for service.

The second call was not presented as a survey for an elected official—rather the surveyor posed as a potential customer booking a trip to LaGuardia airport.

Under these less official circumstances, 90 companies now stated they did not provide accessible services or were unable to be reached after several attempts, while 67 provided a phone number as a referral to an affiliate rather than scheduling the service themselves. Providing a separate phone number to call is in violation of TLC Rules, which requires that the company itself schedule the trip directly.

61 said they would accommodate the request, but either not on the same-day or not at the same price quoted for non-accessible transport (see ‘Equivalency of Service,’ page 13).

In the end, only 21 of 495 TLC-listed livery car companies were able to accommodate a request for a same-day reservation and at the same price quoted for a non-accessible vehicle.

Table 1a: Stated Availability of Accessible Services by Livery Car Companies

<i>States that base is not contracted with accessible vehicle provider and has no ownership of accessible vehicle in its fleet</i>	109 (22.0%)
<i>States that base is contracted/affiliated with accessible vehicle provider *</i>	225 (45.5%)*
States that base has accessible vehicle in its fleet	14 (2.8%)
<i>Number disconnected, duplicate on TLC list, refused to participate</i>	147 (29.7%)
<i>Total</i>	495 (100%)

* 28 companies stated that base was contracted with an accessible vehicle provider, but that they could not remember its name or refused to release that information.

Table 1b: Actual Availability of Accessible Services by Livery Car Companies

<i>Base cannot provide accessible transport or base does not respond to request for service*</i>	199 (40.2%)*
<i>Base tells caller to call a different number for an affiliate</i>	67 (13.5%)
Base can accommodate service request, at equivalent price and within a reasonable time frame	21 (4.2%)
<i>Base can accommodate service request, but not at equivalent price or within a reasonable time frame</i>	61 (12.3%)
<i>Number disconnected, duplicate on TLC list, no response, refused to participate</i>	147 (29.7%)
<i>Total</i>	495 (100%)

* Includes 109 companies who indicated in first survey that they had no accessible vehicle as well as the 90 who could not schedule a trip in second survey.

Findings ↪ Black Car Companies

The initial survey size for black car companies was 68 companies; however, 21 companies listed by the TLC had disconnected or wrong numbers, were duplicates in the TLC list, did not respond after two or more calls, or refused to participate or hung up on the surveyor. It is likely that the 2 companies that refused did not want to participate due to noncompliance.

Of the remaining 47 black car companies, 22 stated that they do not own wheelchair accessible cars and are not affiliated with or contracted with a company that these services. 23 stated that their company does not own wheelchair accessible cars but is affiliated or contracted with a company that does. Of these 23 companies, 8 stated affiliation or contract with an accessible provider but said that they did not know the name or did not want to release the information to the surveyor, 12 stated affiliation or contract with Ahava Access Inc, Vega Transportation, Vincent Limousine, A Ride for All, or Six Star Limousine. Finally, 2 stated that they are affiliated with Access-A-Ride (the MTA's paratransit service) and 1 stated affiliation with an ambulette service (Star Cruiser Ambulette)—neither of which is allowable under the TLC rules.

Only 2 of the companies surveyed from the TLC's list currently own a wheelchair accessible vehicle, but even these companies were ultimately unable to provide an accessible vehicle at an equivalent price and within a reasonable time frame.

The 25 companies which presented themselves as compliant with TLC Rules were



vincent limousine



152 livery car companies and 12 black car companies said that they met the TLC accessibility requirement by contracting with the same 4 providers: Ahava Access, A Ride for All, Vincent Limousine, and Vega Transportation. Together, these companies own only 73 vehicles.

called on a different day to attempt to book a reservation for service. The second call was not presented as a survey for an elected official—rather the surveyor posed as a potential customer booking a trip to LaGuardia airport.

Under these less official circumstances, 7 companies that had previously represented themselves as compliant now stated they did not provide accessible services or were unable to be reached after several attempts.

Of the remaining 18 companies, not one was able to accommodate a request for a same-day reservation and at the same price quoted for a non-accessible vehicle.

Table 2a: Stated Availability of Accessible Services by Black Car Companies

<i>States that base is not contracted with accessible vehicle provider and has no ownership of accessible vehicle in its fleet</i>	22(32.4%)
<i>States that base is contracted/affiliated with accessible vehicle provider *</i>	23(33.8%)*
States that base has accessible vehicle in its fleet	2 (2.9%)
<i>Number disconnected, duplicate on TLC list, refused to participate</i>	21 (30.9%)
<i>Total</i>	68 (100%)

* 8 companies stated that base was contracted with an accessible vehicle provider, but that they could not remember its name or refused to release that information.

Table 2b: Actual Availability of Accessible Services by Black Car Companies

<i>Base cannot provide accessible transport or base does not respond to request for service*</i>	29 (42.6%)*
<i>Base tells caller to call a different number for an affiliate</i>	4 (5.9%)
Base can accommodate service request , at equivalent price and within a reasonable time frame	0 (0.0%)
<i>Base can accommodate service request, but not at equivalent price or within a reasonable time frame</i>	14 (20.6%)
<i>Number disconnected, duplicate on TLC list, no response, refused to participate</i>	21 (30.9%)
<i>Total</i>	68 (100%)

* Includes 22 companies who indicated in first survey that they had no accessible vehicle as well as the 7 who could not schedule a trip in second survey.

Inappropriate and Unlawful Referrals to Ambulette and Paratransit Services

17 of the community car companies and 1 of the black car companies surveyed stated affiliation or contract with an ambulette service.

TLC Rules explicitly prohibit For-Hire-Vehicle base owners from delivering service to wheelchair users through paratransit vehicles or ambulettes, like this vehicle below, marked "invalid coach." (Photo from frostbitten photostream, Flickr.com, 2008, Creative Commons license)



An FAQ on the TLC website explains ¹:

“Referring callers for wheelchair-accessible service to another base does not constitute compliance with the TLC’s wheelchair accessibility rule. When you receive a call for a wheelchair-accessible vehicle, your base must place the call to the base with which you have contracted for the service. Additionally, you may not contract with a paratransit/ambulette base unless the vehicle(s) that base dispatches are unmarked on their exterior as to their paratransit/ambulette status.”

“Paratransit/ambulette bases are primarily for specialized medical transportation, not for local, demand-responsive, daily transportation. Your base may comply with this rule by either purchasing its own accessible vehicle or by contracting with another TLC-licensed base to provide the service to passengers upon request. The bases that have been approved by the TLC to provide this service, and to contract with other bases, are A Ride for All, Symphony Transportation, and Vega Transportation.”

This contradicts with a published list of fifteen companies that the TLC has on its website detailing approved wheelchair accessible services² that include many of the ambulette companies that livery bases are contracted with. It is unclear to riders whether there are three TLC-approved companies or fifteen that are allowable for contract. This list is now updated.

Adding to this confusion is that while the TLC is clear that ambulette vehicles must be unmarked, calls to the four ambulette companies on the published list of fifteen accessible service providers (Allied Central Ambulette, Ocean Ambulette, Starrett Ambulette, and Upward mobility) revealed that none of those companies own accessible vehicles without ambulette (medical) markings. In fact, all vehicles were described as “full-service ambulettes,” complete with medical equipment. When livery or black car companies contract with these companies their customers are sent unnecessarily expensive vehicles with markings that medicalize the experience, a stigma TLC Rules sought specifically—and rightfully—to prohibit.

These ambulette providers charge much more for transportation services. Bases that contract with these providers, therefore, must reflect this difference in higher cost in the fare, in order to remain profitable. The current TLC law makes reliable and reasonable accessible services unattainable because of this contracting provision. For-hire bases cannot provide equal pricing for an accessible vehicle if the providers they contract with charge more.

There is no vagueness about the final category of inappropriate contracting. Five companies referred the surveyor to MTA New York City Transit’s paratransit service, Access-A-Ride. We can be confident that these companies have no actual formal relationship with the MTA, as the public-purpose agency does not contract out its services. Access-A-Ride operates a parallel paratransit service to the regular mass transit system to registered users meeting federal qualifications. Referring riders to Access-A-Ride clearly demonstrates noncompliance with TLC Rules.

¹ New York City Taxi and Limousine Commission (2008, October 15) *Wheelchair Accessibility FAQ* [WWW document] HTML <http://www.nyc.gov/html/tlc/html/faq/wheelchair.shtml>

² New York City Taxi and Limousine Commission (2008, October 23) *Wheelchair Service Providers* [WWW document] PDF http://www.nyc.gov/html/tlc/downloads/pdf/wheelchair_accessible_service_providers.pdf

Equivalence of Service for Livery Car Bases

There are fundamental problems beyond the availability of accessible vehicles. Even where vehicles are available, the equivalence of service standard is not being met, and price gauging is an extreme problem.

For example, NY 88 Express Corporation (Long Island City) priced a trip to LaGuardia airport in an accessible car at \$150 (plus toll/tip), while a Lincoln Towncar for the same trip for a non-wheelchair user was priced at \$18 (plus toll/tip). Another company, Cibao Radio Dispatch (Flushing), priced a trip to LaGuardia at \$250 for an accessible car, while a Lincoln Towncar for the same trip was quoted at \$15.

The average additional charge, above the regular quoted fare, for all livery car bases that could provide an accessible car was \$37.

Other unequal company policies include unreasonable and disparate advance reservation rules. For example, Accord c/l Service Inc stated that the rider should call at least two weeks in advance to make a reservation for a wheelchair accessible vehicle, but had non-accessible cars available immediately.

Finally, two companies that said they owned a wheelchair accessible car, RC Audubon Svc Inc and Watson Car Service, could not provide services because the cars were not in service.

Equivalence of Service for Black Car Bases

Price gouging was also an even greater problem with black car companies, where the average additional charge, above the regular quoted fare, for an accessible vehicle was an exorbitant \$109.

Limitations on availability presented an additional obstacle to service. For example, Eagle American Limo Svce Inc required a month advance notice to accommodate a passenger requiring an accessible car. CET group Inc required 48 to 72 hour advance reservations. Both quoted same-day availability for non-wheelchair customers.

The two companies that stated ownership of an accessible vehicle, Dial 7 Car and Limo and Spectacular Limo Link, Inc, could not provide accessible service at an equivalent price and within a reasonable timeframe. Spectacular Limo Link, Inc had immediate availability of an accessible vehicle, but charged \$116 for an accessible car and only \$68 for a Lincoln Towncar. Dial 7 Car and Limo came closer to meeting the rules, and could accommodate a request for an accessible vehicle at an equivalent price, but required a 24 hour reservation notice.

The fact that not one black car company base was able to provide equivalency in service highlights the extreme problems that exist in this industry.

HOW MUCH TO LGA?

Wheelchair users can expect to pay an average of \$37 more for a trip to the airport in a livery car and an average of \$109 more for a trip in a black car.

(Photo courtesy of Jim H.)



Number of Accessible Vehicles Industry-Wide

According to the TLC, there are 30,110 affiliated livery and black car vehicles across the city. Of the 563 for-hire companies (livery and black car) that are listed as licensed by the TLC, this survey revealed only 75 accessible vehicles among their fleets.

In other words, only 0.2% of all black cars or livery cars are available on the market to wheelchair users in New York City. This ratio is tiny even compared to the small proportion of accessible Yellow Cabs (238 out of a total of 13,000).

One of the major obstacles in providing accessible transportation in the for-hire car industry is the lack of accessible cars owned by bases. According to Carmel Limousine Service CEO, Avik Kabessa, most for-hire bases do not own cars, and only dispatch trips to affiliated drivers. A for-hire base station that is not the owner of any of its affiliate vehicles cannot force an owner of an accessible vehicle to affiliate with it. Even if a way was found to force such affiliation, says Mr. Kabessa, it is not economical because there is little cross-usage. For bases that do own cars, Mr. Kabessa says that because there is little cross use, for-hire bases find that these cars sit unused at a high cost to the base.

Complicating matters further, Mr. Kabessa says that penalizing bases that do not own cars does not solve the problem of providing accessible transportation; it simply forces these bases to make fast and meaningless contracts with accessible providers to avoid expensive penalties. The TLC does not distinguish between bases that own their fleets of cars and bases who do not when it comes to enforcement of rule 6-07(f). Bases that own their cars can more easily make some of them accessible as they do not have to solicit an independent owner of a wheelchair accessible vehicle to affiliate with them.

Problems with TLC Enforcement

According to Assistant Commissioner of Constituent Affairs Samara Epstein the TLC had not been enforcing monetary penalties or any form of licensing suspension for non-compliance with rule 6-07(f) as of November 2009. Assistant Commissioner Epstein stated, "last spring, we added a monetary penalty to the 6-07 (f) violation as part of the For-Hire Vehicle Accountability Rules. The rules became effective on July 2, and we have thus far been focusing on education, not enforcement. We are planning to begin enforcement for this package of new rules next month."¹ The Assistant Commissioner went further, explaining that the TLC had issued a few violations prior to November, 2009, as there had been a problem with the previous rule wherein it allowed bases time to prove their compliance by contracting with an accessible provider after the fact, and avoiding any penalty.²

On January 6, 2010, Assistant Commissioner Epstein stated that the TLC, "[now] issues notices to bases that are not in compliance and enforcement visits bases that do not comply with 6-07(f) to issue them violations, which can result in a \$1,000 penalty and suspension until compliance."³ The TLC was not able to confirm when these monthly base checks began, or at what point the TLC began issuing violations for non-compliance with rule 6-07(f). However, the TLC did confirm use of a "secret shopper program." Assistant Commissioner Epstein described the program: "the secret shopper program is similar to how you made calls for your report- we call posing as potential customers requesting a wheelchair accessible vehicle. We call bases at least once a year."

A final issue is with the TLC website itself. When viewed weekly between October and December 2009, the link for filing a complaint with the TLC on the wheelchair accessibility web page was inactive. The TLC cannot enforce rule 6-07(f) unless customers are able to register complaints. The failure to maintain the link reinforces the fact that the TLC does not give adequate attention to this issue. Though the TLC has fixed this link after being informed by our office, it is likely that many complaints went unheard during this period, and it is unknown how long the link was inactive before October 2009.

1 Epstein, Taxi and Limousine Commission Assistant Commissioner of Constituent Affairs Samara (2009, November 19). *Electronic Mail to Assembly Member Micah Z. Kellner Re: Accessible Violations*

2 Ibid.

3 Epstein, Taxi and Limousine Commission Assistant Commissioner of Constituent Affairs Samara (2010, January 6). *Electronic Mail to Assembly Member Micah Z Kellner Re: Accessibility Report*

Recommendations

ALMOST EIGHT YEARS AFTER THE ADOPTION OF TLC FOR-HIRE VEHICLE RULE 6-07(F), SCARCELY ANY (4% OF COMMUNITY OR "LIVERY" CAR COMPANIES AND NO BLACK CAR COMPANIES) ARE IN COMPLIANCE. Where companies claim to fulfill accessible obligations through contracts, the bulk of these do not adhere to TLC Rules (the company provides a phone number for a non-authorized service to the caller or the contracted company is not permissible to contract with).

While TLC Rule 6-07(f) mandates for-hire bases to contract in order to be in compliance as an alternative to purchasing accessible vehicles, the rules related to contracting do not guarantee reliable and equal services.

Where vehicles are made available to wheelchair users, price gouging (by an average of \$37 for livery car bases and \$109 for black car bases) is rampant, and discriminatory obstacles such as requiring unreasonable and disparate advance service or availability is commonplace. While price gauging and unreasonable wait times can often be explained by the difficulties in contracting with providers that charge more for their services, it is nonetheless problematic and contradictory to the intent of the rule.

Finally, there is a startling lack of accessible vehicles available for the 60,000 New Yorkers who use wheelchairs in the livery and black car fleets—only 0.2%.

Though the TLC has now begun issuing violations for non-compliance, the fact remains that for five years after rule 6-07(f) went into effect, the TLC did nothing to enforce this rule citing only a need for “education.” This has left the for-hire vehicle industry largely inaccessible to riders who use wheelchairs. Also, stricter enforcement of this rule will not guarantee reliable and equal accessible transportation. For-hire base compliance with rule 6-07(f) through contracting currently leads to price gouging and unreasonable wait times. This rule must be re-worked to help bases find more efficient ways to provide accessible vehicles to riders. Contracting with a small number of accessible providers for the provision of accessible cars does not help riders or the for-hire bases; bases either lose money, or have to charge riders unreasonably high prices for an accessible vehicle. The current rule leads to higher costs for riders and meaningless contracts that bases have no desire to honor. It is clear from these findings that there are far too few accessible for-hire vehicles on the road and more for-hire bases must own their own accessible cars to eliminate meaningless contracting and price gouging. The TLC should also differentiate between larger for-hire bases with dispatched cars, and smaller bases with owned vehicles when enforcing rule 6-07(f). Larger bases can and should be able to make a percentage of their dispatched cars accessible, while smaller bases might not be able to provide this service without price gouging and unreasonable wait-times.

Furthermore, companies that provide for-hire bases with accessible vehicles through contracts should be closely monitored to ensure that they do not charge an unequal rate to for-hire bases.

Recommendations

- For-hire bases that own a large number of vehicles should be required to have accessible vehicles in their fleets. Rule 6-07(f) should be revised to require that 5% of larger base fleets must be accessible. For example: for every 100 vehicles owned, 5 would be wheelchair accessible;
- The TLC should clearly identify the for-hire companies that own accessible vehicles on their website and in their publications so that wheelchair customers can make a more informed decision when choosing which service to use;
- When a for-hire vehicle base chooses to contract with an approved accessible provider, that provider should be listed next to the for-hire vehicle base on the TLC website and in related publications so that wheelchair customers can make a more informed decision when choosing which service to use;
- The TLC should restrict the number of companies that are allowed to affiliate with the same approved accessible vehicle provider and this standard should take into ac-

count the number of vehicles that is reasonable to be 'shared' amongst companies that are all expected to provide the same equivalency of service to wheelchair customers;

- The TLC should monitor accessible providers that contract with bases for price gouging, and other inequitable practices;
- The TLC should undertake periodic audits of livery and black car companies to ensure compliance;
- Price gouging of wheelchair users should specifically carry significant fines and penalties, including loss of license;
- The TLC should require livery and black car companies that choose to fulfill For-Hire Vehicle Rule 6-07(f) through contract to submit, annually, copies of valid contracts. The TLC should verify that these contracts specify terms of service that include equal pricing and standards of availability consistent with what is provided to non-wheelchair users by that company. Failure to submit these contracts for review should result in no less than loss of license to operate;
- The TLC should clarify what companies are approved to offer contracting services and remove contradictory information from their websites and other publications;
- The TLC should review its protocol for approving contractors of accessible services to ensure that ambulette companies unable to guarantee the unmarked status of an accessible car are not approved;
- All publications aimed at communicating the rights of passengers of livery and black car companies should include information pertinent to wheelchair users, including but not exclusive to: the right to book a vehicle that is wheelchair accessible, the right to an equal price, the right to equivalent availability, and the right to be immune to unreasonable and additional restrictions for booking a trip; and,
- The TLC "secret shopper program" should be conducted more frequently than once a year, and its results made public, as an aggregate, for better oversight of rule 6-07(f).

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