

# RULES AND REGULATIONS

## Title 52—PUBLIC UTILITY

PENNSYLVANIA PUBLIC UTILITY COMMISSION

[52 PA. CODE CH. 29]

[L-930090]

### Limousine Service Supplemental

The Pennsylvania Public Utility Commission (Commission) adopted a final rulemaking order June 6, 1996, regarding what constitutes a luxury-type vehicle eligible for use in limousine service. Further, the regulations require limousine operators to carry trip-sheets with relevant information. These trip sheets will aid the Commission in its enforcement endeavors. The contact person is John Herzog, Assistant Counsel, Legal Division, Bureau of Transportation and Safety, (717) 783-3173.

#### *Executive Summary*

By order entered February 24, 1994, the Commission initiated a proposed rulemaking to amend and supplement its regulations regarding limousine service. The proposed rulemaking was intended to better define what constitutes a limousine, to exempt all vehicles licensed as limousines from identification markings with the exception of vehicle plates as prescribed by 75 Pa.C.S. § 1925.1, to revise existing tariff requirements, and to add a trip sheet requirement. Comments to the rulemaking indicated that some of the proposed changes were not in the public interest and may be unduly burdensome to the limousine industry. The Commission addressed these comments in its Final Rulemaking and modified the proposed regulations where appropriate. Significantly, the Commission eliminated proposed tariff changes from the rulemaking.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Commission submitted a copy of the final rulemaking, which was published as proposed at 24 Pa.B. 4111, and served on August 3, 1994, to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House Committee Consumer Affairs and the Senate Committee on Consumer Protection and Professional Licensure for review and comment. In compliance with section 5(b.1) of the Regulatory Review Act, the Commission also provided IRRC and the Committees with copies of comments received, as well as other documentation.

In preparing these final-form regulations, the Commission has considered the comments received from IRRC, the Committees and the public.

These final-form regulations were deemed approved by the House Committee on Consumer Affairs and were approved by the Senate Committee on Consumer Protection and Professional Licensure on October 3, 1996, and were approved by IRRC on October 3, 1996, in accordance with section 5(c) of the Regulatory Review Act.

Public meeting held June 6, 1996

*Commissioners present:* John M. Quain, Chairperson; Lisa Crutchfield, Vice Chairperson, Dissenting—Statement follows; John Hanger, Statement follows; David W. Rolka, Concurring and Dissenting in part—Statement follows; and Robert K. Bloom

### Order

#### *By the Commission:*

By order entered February 24, 1994, the Commission initiated a proposed rulemaking to amend and supplement its regulations regarding limousine service. The purpose of the rulemaking was to better define what constitutes limousine service, to ensure that only qualified service is provided under limousine authority, to provide documentation to the Commission useful in investigations and rate filings, to more clearly delineate limousine service from call-or-demand service, and to aid the Commission and the industry in interpreting and applying limousine regulations.

On April 14, 1994, the Office of Attorney General issued its approval of the proposed regulations as to form and legality. On August 3, 1994, copies of the proposed regulations were delivered for review and comment to the designated standing committees of both houses of the General Assembly and IRRC. The proposed rulemaking was published in the August 13, 1994 edition of the *Pennsylvania Bulletin*, 24 Pa.B. 4111.

Comments to the proposed rulemaking were filed by IRRC, Mortuary Removal Service, Inc., Top Hat Chauffeured Limousine Services, Erie Limousine Service, Delaware Valley Limousine Operators Association, Inc., North Eastern Limousine Association, Landis Luxury Coaches, The Brotherhood of Unified Taxi Drivers/Owners, King Limousine and Transportation Service, Inc., Acumen Limousine Service, Boston Coach, Western Pennsylvania Limousine Association, Philadelphia Convention & Visitors Bureau, CoreStates Bank, N.A., Executive Transportation, Inc., Posten Taxi, Inc., and Liberty Limousine. Due to the large number of commentators, we will not discuss each comment individually. Instead, we will discuss the proposed amendments section by section, referring to the relevant comments for the particular provision under consideration.

#### § 29.333. Vehicle and equipment requirements.

(a) Limousine service may be operated only in luxury type vehicles with seating capacities of [10] *nine* passengers or less, excluding the driver.

The Commission's motivation for reducing the allowable seating capacity for limousine service was to reconcile the Commission's regulations with the Motor Vehicle Code. While some commentators indicated that they are already complying with the proposed change, comments regarding this change were generally negative. Comments indicated that "super stretch" limousines have passenger seating capacities of ten. These vehicles, currently utilized by limousine operators, would be excluded from limousine service under the proposed change. One commentator suggested that limousines should have a seating capacity of no less than nine passengers.

We are in agreement with the majority of the commentators that reducing the seating capacity for limousine service is not warranted. While this means that a discrepancy will remain between the Commission's definition of a limousine and the definition found in the Vehicle Code, this discrepancy does not justify changing the existing regulation. This necessarily implies that some vehicles recognized by the Commission as limousines will not be able to get a limousine license plate from PennDOT. This alone does not make these vehicles anything other than a limousine.

*(b) Luxury type vehicles are vehicles which at the time of acquisition or with subsequent modifications have physical configurations and accessory features that are not considered as being ordinary, standard or commonplace in lower to moderately priced vehicles. Luxury type vehicles are intended to afford patrons a higher level of service and comfort than are ordinarily available in call or demand, paratransit and airport transfer services. To qualify as a luxury type vehicle, a vehicle shall have at a minimum: air conditioning, AM/FM cassette stereo radio, deluxe leather or deluxe fabric upholstery, deluxe wheels or wheel covers, four doors and a wheelbase of at least 109 inches. Other amenities which limousine service might afford are reading lights, work desk or table, cellular phone, refrigerator, television, VCR, extended wheelbase and privacy dividers. Vehicles classified as antique or classic motor vehicles as defined by 75 Pa.C.S. § 102 (definitions) can be deemed luxury type vehicles. Station wagons and all purpose vehicles may not be considered to be luxury type vehicles. Vans that meet the luxury type vehicle standards may be considered luxury type vehicles.*

Comments to this proposed amendment were generally supportive of the need for clarification of what constitutes a luxury-type vehicle. However, commentators objected to inclusion of an AM-FM cassette radio as required equipment, reasoning that rarely do customers ask for such a service. Further, commentators objected to the blanket exclusion of station wagons and all purpose vehicles from the definition of luxury-type vehicle. IRRC commented that the first sentence of the proposed regulation should be altered to change the focus from the acquisition date of the vehicle to the manufactured date of the vehicle to determine if the vehicle qualifies as a limousine.

We agree with all of the comments and have modified the regulation accordingly. However, we will require that all luxury type vehicles have an AM/FM stereo radio.

*(c) Prior to the vehicle's operation, the vehicle shall first be described in a written communication with one interior and one exterior photograph of each vehicle sent to the Bureau of Transportation, Pennsylvania Public Utility Commission, Post Office Box 3265, Harrisburg, Pennsylvania 17105-3265. The vehicle description shall include the vehicle make, vehicle model, vehicle type (such as sedan), year of manufacture and a list of features which would qualify the vehicle as a luxury type vehicle. Letters of explanation may be included.*

Comments on this provision were generally negative. Commentators were concerned that requiring Commission approval of a vehicle prior to placing the vehicle in service would create undue delay and expense. Commentators alleged that an operator can not make a significant capital outlay for a vehicle without knowing if that vehicle can be used in service. Also, comments indicated that two photographs may not be sufficient to meet the Commission's objective.

As an alternative to the Commission's proposal, it was suggested that the Commission publish an annual list of vehicles which will automatically qualify as luxury-type. Further, it was suggested that operators provide the Commission with an updated list of all current and newly acquired vehicles.

Based on the foregoing, we will not require Commission preapproval of a vehicle prior to that vehicle being placed in limousine service. Also, in an effort to minimize the

regulatory burdens on the industry, we will not require that operators provide a vehicle list to the Commission. We do not believe that deleting this proposal significantly compromises our ability to protect the public interest. We will provide the industry with a listing of vehicles which qualify as luxury type vehicles. A vehicle being placed on that list creates a prima facie case that it is a luxury type vehicle. A copy of this list will be kept at Commission offices and will be available upon request.

*[(b)] (d) Section 29.71(a) (relating to marking of vehicles) does not apply to [luxury-type] luxury type vehicles [with a capacity not to exceed seven passengers when] engaged in limousine service under [§§ 29.331—29.334] §§ 29.331—29.335 (relating to limousine service). Vehicles licensed as limousines are required to be identified by vehicle plates as prescribed by 75 Pa.C.S. § 1925.1 (relating to limousines).*

Comments on this provision indicated that requiring limousine plates on vehicles operating as limousines may be problematical, due to the conflict between the Commission's definition of limousine and the Vehicle Code's definition. Notwithstanding this problem, IRRC suggested that the proposed § 29.333(d) be retained, but amended by adding additional identification requirements for a special decal or emblem to be visibly displayed on the rear shelf area or affixed to the rear window on those luxury type vehicles unable to obtain limousine license plates.

The Commission's regulations provide that a limousine is a luxury type vehicle with a seating capacity of ten passengers or less. The Vehicle Code provides that a limousine is a motor vehicle with a seating capacity of nine passengers or less, 75 Pa.C.S. § 102. Vehicles which do not fall within the Vehicle Code's definition of "limousine" will not be issued limousine registration plates. 75 Pa. C.S. § 1925.1. The discrepancy between the Vehicle Code's definition of limousine and the Commission's definition results in some vehicles operating in authorized limousine service without having limousine registration plates.

We do not believe that this licensing problem is sufficiently widespread to mandate additional identification requirements for those limousines unable to obtain limousine license plates. Therefore, we will not amend § 29.333(d) as suggested by IRRC. Further, we will delete our proposed language that "all vehicles licensed as limousines are required to be identified by vehicle plates," since this will be impossible for those limousines having seating capacities of ten passengers.

§ 29.334. Tariff requirements.

[Limousine rates may be based on mileage or time, or both, and shall be contained in a tariff filed, posted and published under statute and under title.]

*(a) Primary rate structures for limousine service shall be based on time. Primary rate structure means the method principally used by the carrier to calculate the amount to be paid by its patrons for service rendered. However, supplemental charges based on mileage may be assessed and added to the primary rate structure charge in situations where round trip mileage exceeds 100 miles.*

*(b) Limousine service shall be subject to a minimum charge provision as established and set forth in the carrier's tariff. The minimum charge may not be less than the charge for 1 hour at the rate set forth in the respective primary rate structure.*

(c) Rate levels which are based upon the nature of the vehicle provided (such as regular limousine, stretch limousine, luxury van, luxury sedan, classic vehicles) shall be fully detailed in the carrier's tariff.

(d) Charges for nontransportation services may not be contained in the carrier's tariff.

(e) Limousine tariffs are to be filed, posted and published in accordance with other pertinent provisions of Subpart A and this subpart (relating to general provisions). Financial justification and other supporting documentation shall be submitted when tariffs are filed.

Comments on this provision were mixed. Some limousine operators supported the provision as drafted. Other operators objected, claiming that the hourly rate structure and minimum charge are unduly burdensome. Also, two noncarrier operators, the Philadelphia Convention & Visitors Bureau and CoreStates Bank, N.A., opposed both the proposed rate structure and the minimum charge. These commentators indicated that the proposals would only serve to increase the costs of limousine service to the public, since most of their trips were far less than 1 hour and the trips were generally local trips within Philadelphia.

The proposed tariff changes were designed to establish a clearer differentiation between limousine and taxicab services. There apparently is some overlap between these services. This problem is especially acute in the Philadelphia area for trips to and from the airport. In *Pa. P.U.C. v. Metro Transportation Co.*, Docket No. I-00940030, Order entered July 21, 1995, we ordered an investigation into the competition between limousine services and taxicab services. In that proceeding, we recognized that there may be some allowable overlap among the various types of passenger transportation. We noted, within the context of that proceeding, that the taxicab industry is withstanding competition fairly well. Further, in that proceeding we approved a limousine tariff that was mileage based.

Based on the foregoing, we find that changing the tariff structure as proposed would not be in the best interests of the riding public. We will not penalize the public in order to referee a dispute between taxicabs and limousines. Obviously, the limousines are providing a service for a price that the public wants. It is not proper for us to increase that price to the public for the sole purpose of protecting a competing industry. 66 Pa.C.S. § 1311(d). At some point, the marketplace must dictate whether there is sufficient demand for a particular type of transportation. We will not frustrate the workings of the marketplace by establishing a limousine tariff structure that would only serve to increase costs of limousine service to the public. We believe that there are sufficient means of differentiating limousine and taxicab service beyond implementation of a tariff structure that would negatively impact the availability of limousine service for the riding public. Therefore, we will eliminate the proposed tariff provision from the rulemaking.

§ 29.335. *Trip sheet requirements.*

(a) A driver of a luxury type of vehicle engaged in limousine service shall have a trip sheet in the vehicle evidencing that the vehicle is in service. The trip sheet shall contain the following information:

(1) The date of service.

(2) The name of the certificated carrier.

(3) The name of the engaging person or organization.

(4) The service being provided and the corresponding rate being charged.

(5) The intended destination.

(6) The starting time and length of time for which the vehicle has been reserved.

(7) The initial odometer reading.

(b) At the conclusion of the trip, the driver shall record the ending time and final odometer reading on the trip sheet.

(c) The trip sheet shall be retained by the certificate holder for at least 2 years. Copies of these documents may be required to be submitted in support of carrier proposed tariff rate increases in addition to other documentation set forth in § 23.64 (relating to data required in filing increases in operating revenues).

Comments to this provision were generally favorable. Some limousine operators supported the adoption of this provision without revision. Other operators commented that the trip sheets would create too much paperwork and objected to retaining the sheets for 2 years. Further, one limousine operator commented that requiring the trip sheet be kept in the vehicle during service is untenable, since many limousine trips do not originate at the home office and therefore the driver cannot get a trip sheet.

Based on these comments, we will modify the proposed regulation to require limousine operators to retain trip sheets for 1 year. Further, we are not persuaded that requiring drivers to keep trip sheets in the vehicle during service is overly burdensome. The information required on the trip sheet is basic background information. Certainly, a driver in communication with the home office is capable of providing this information at the time the driver is dispatched.

Finally, in our order proposing these regulations, we requested commentary on the implementation of a voucher system. Under this system, the service provider would issue vouchers to clients for use in paying for service rendered in accordance with previously established billing arrangements. The comments on this proposal were negative. The information to be provided on the voucher would now be required on a trip sheet. Further, this method of payment could be restrictive, unnecessarily displacing other legitimate payment methods. Therefore, we will not pursue the voucher payment system at this time.

Having considered all comments filed to the proposed rulemaking, we believe the regulations as set forth in Annex A should be adopted as the final rulemaking.

Accordingly, under section 501 of the Public Utility Code, 66 Pa.C.S. § 501 and the Commonwealth Documents Law (45 P.S. § 1201 et seq.), and regulations promulgated thereunder at 1 Pa. Code §§ 7.1—7.4, we find that regulations governing limousine service shall be amended. *Therefore,*

*It is Ordered that:*

1. The regulations of the Commission, 52 Pa. Code Chapter 29, are amended by amending §§ 29.331 and 29.333 and by adding § 29.335 to read as set forth in Annex A.

2. The Secretary shall submit this order and Annex A to the Office of Attorney General for approval as to the legality.

3. The Secretary shall submit this order and Annex A to the Governor's Budget Office for review of fiscal impact.

4. The Secretary shall submit this order and Annex A for formal review by the designated standing committees of both Houses of the General Assembly, and for formal review by the Independent Regulatory Review Commission.

5. The Secretary shall deposit this order and Annex A with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

6. The Secretary shall serve copies of this order and Annex A upon each of the commentators.

7. These amendments shall become effective January 29, 1997.

JOHN G. ALFORD,  
Secretary

*Editor's Note:* The amendment of § 29.331 (relating to conditions) was not included in the proposal at 24 Pa.B. 4111 (August 13, 1994). The proposal to amend § 29.334 (relating to tariff requirements), included at 24 Pa.B. 4111, has been withdrawn by the Commission.

*Editor's Note:* For the text of the order of the Independent Regulatory Review Commission relating to this document, see 26 Pa.B. 5181 (October 26, 1996).

**Fiscal Note:** 57-144. No fiscal impact; (8) recommends adoption.

*Statement of Vice Chairman Lisa Crutchfield*

Limousine service, like any other passenger transportation service, is in dire need of regulation. When a passenger hires a taxicab, paratransit service, bus, or limousine service to transport her to a specific location, she trusts that the appropriate authorities have fulfilled their obligation to ensure that the vehicle is safe, that the driver is charging a nondiscriminatory fare and that the driver is licensed and is a nonthreatening professional.

The Pennsylvania Public Utility Commission, pursuant to the Public Utility Code, is the governmental agency empowered with the responsibility to ensure that the limousine industry transports passengers safely and at reasonable prices. To fulfill our responsibility, it is incumbent upon this Commission to maintain an updated list of all authorized vehicles providing service as limousines in this Commonwealth, and it is also imperative that those vehicles be appropriately marked as vehicles that have been approved by the Commission and the Commonwealth's Department of Transportation. The Department of Transportation, however, only issues limousine license plates to motor vehicles carrying no more than nine passengers. 75 Pa.C.S. § 102. If the limousine has the capacity to carry more than nine people, it will be issued a bus license plate. The Commission's regulations, however, provide for a limousine to carry up to 10 passengers; consequently, a problem arises when a passenger complains with the Commission regarding the fare or service received in a vehicle which we deem to be a limousine, but the motor vehicle has a license plate indicating it as a bus. There needs to be a clear indication through a decal or through the license plate of the type of vehicle and service the passenger is obtaining. I believe the Commission should issue a decal when it provides this class of vehicles with its certificate of public convenience.

When I get into a taxicab, I assume it is safe because it is appropriately identified by the markings on the car and by the medallion. When a passenger gets into a bus or a

paratransit vehicle, they assume it is safe because of the appropriate markings and the license plates. I believe it is imperative that the limousine industry be required to comply with the same regulations. In light of my concerns regarding all passengers' safety, I cannot support Chairman John Quain's motion.

*Statement of Commissioner John Hanger*

Strong arguments exist for modifying the existing economic regulation of the limousine and bus industries in Pennsylvania. I, however, do not support ending safety and insurance regulation of these two industries.

The Commission's role to ensure safety in public transportation and public utility service is vital. It is a proper role of government and should not be compromised. This Commission must continue to enforce vigorously the safety and insurance requirements of the Public Utility Code.

*Statement of Commissioner David W. Rolka*

The Chairman has offered a Motion which rejects the amendment of two provisions under § 29.333.

The first is found at § 29.333(c). As proposed, the amendment would require limousine operators to submit a vehicle identification list, to be updated annually and as new vehicles are acquired, which provides a complete description of all vehicles being used to provide service. Because this rulemaking gives us a detailed definition of what constitutes a "luxury type" vehicle, having such a list on file will be an aid in updating our own list of vehicles that fall within the definition and will provide some measure of surveillance of our insurance requirements.

The second amendment, at § 29.333(d), would require the letters "LM" to be affixed to the rear window of luxury type vehicles that are unable to obtain limousine plates under 75 Pa.C.S. § 1925.1. This requirement would be restricted to vehicles which are not identified by limousine license plates, and I believe providing easier identification actually will enhance enforcement efforts.

I believe these two provisions would streamline our enforcement efforts and must respectfully dissent on the Chairman's Motion.

**Annex A**

**TITLE 52. PUBLIC UTILITIES**

**PART I. PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Subpart B. CARRIERS OF PASSENGERS OR PROPERTY**

**CHAPTER 29. MOTOR CARRIERS OF PASSENGERS**

**Subchapter D. SUPPLEMENTAL REGULATIONS  
LIMOUSINE SERVICE**

**§ 29.331. Conditions.**

This section and §§ 29.332—29.335 (relating to limousine service) apply to operations in the limousine class of common carriage. These sections apply in addition to relevant provisions of Subchapters A and B (relating to general provisions; and common carriers) as well as a particular provision contained in a certificate of a carrier.

**§ 29.333. Vehicle and equipment requirements.**

(a) Limousine service may be operated only in luxury type vehicles with seating capacities of ten passengers or less, excluding the driver.

(b) Luxury type vehicles are vehicles manufactured or subsequently modified so that they have physical configurations and accessory features that are not considered as being ordinary, standard or commonplace in lower to moderately priced vehicles. Luxury type vehicles are intended to afford patrons a higher level of service and comfort than are ordinarily available in call or demand, paratransit, and airport transfer services. To qualify as a luxury type vehicle, a vehicle shall have at a minimum: air conditioning, AM/FM stereo radio, deluxe leather or deluxe fabric upholstery, deluxe wheels or wheel covers, four doors and a wheelbase of at least 109 inches. Other amenities which limousine service might afford are AM/FM cassette stereo radio, reading lights, work desk or table, cellular phone, refrigerator, television, VCR, extended wheelbase and privacy dividers.

(c) Section 29.71(a) (relating to marking of vehicles) does not apply to luxury type vehicles engaged in limousine service under this section and §§ 29.331, 29.332, 29.334 and 29.335 (relating to limousine service).

**§ 29.335. Trip sheet requirements:**

(a) A driver of a luxury type vehicle engaged in providing limousine service shall have a trip sheet in the vehicle evidencing that the vehicle is in service. The trip sheet shall contain the following information:

- (1) The date of service.
- (2) The name of the certificated carrier.
- (3) The name of the engaging person or organization.
- (4) The service being provided and corresponding rate charged.
- (5) The intended destination.
- (6) The starting time and length of time for which the vehicle has been reserved.
- (7) The initial odometer reading.

(b) At the conclusion of the trip, the driver shall record the ending time and final odometer reading on the trip sheet.

(c) The trip sheet shall be retained by the certificateholder for a minimum of 1 year. Copies of the documents may be required to be submitted in support of carrier proposed tariff rate increases in addition to other documentation in § 23.64 (relating to data required in filing increases in operating revenues).

[Pa.B. Doc. No. 96-2011. Filed for public inspection November 29, 1996, 9:00 a.m.]

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**[52 PA. CODE CH. 30]**

[L-940092]

**Taxicab Medallion Program**

At a public meeting held May 23, 1996, the Pennsylvania Public Utility Commission (Commission) adopted an order which promulgated a final rulemaking to provide a medallion system of regulation for call or demand carriers (taxicabs) in cities of the first class under the Public Utility Code, 66 Pa.C.S. §§ 2401—2416. These amendments provide for specific equipment and reporting requirements and contains enforcement and administrative

provisions. The contact person is John Herzog, Assistant Counsel, Legal Division, Bureau of Transportation and Safety, (717) 783-3173.

*Executive Summary*

Under the act of April 4, 1990 (Medallion Act) (P. L. 93), the Public Utility Code was amended to provide a medallion system of regulation for call or demand carriers (taxicabs) in cities of the first class under Chapter 24 to the Public Utility Code, 66 Pa.C.S. §§ 2401—2416. The Medallion Act became effective July 3, 1990. The purpose of the Medallion Act was to upgrade and improve the operations of taxicabs in cities of the first class.

The amendments are in response to that Legislation. They provide for specific equipment and reporting requirements and contain enforcement and administrative provisions.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Commission submitted a copy of the final rulemaking, which was published as proposed at 25 Pa.B. 1517 (April 22, 1995) and served on April 11, 1995, to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of House Committee Consumer Affairs and the Senate Committee on Consumer Protection and Professional Licensure for review and comment. In compliance with section 5(b.1) of the Regulatory Review Act, the Commission also provided IRRC and the Committees with copies of the comments received, as well as other documentation.

In preparing these final-form regulations, the Commission has considered the comments received from IRRC, the Committees and the public.

These final-form regulations were deemed approved by the House Committee on Consumer Affairs on October 2, 1996, and were approved by the Senate Committee on Consumer Protection and Professional Licensure on September 25, 1996, and were approved by IRRC on October 3, 1996, in accordance with section 5(c) of the Regulatory Review Act.

Public meeting held  
May 23, 1996

*Commissioners Present:* John M. Quain, Chairperson; Lisa Crutchfield, Vice Chairperson; John Hanger; David W. Rolka; and Robert K. Bloom

**Order**

*By the Commission:*

By order entered November 9, 1994, the Commission initiated a proposed rulemaking to amend and supplement its regulations regarding taxicab service in cities of the first class. Under the Medallion Act, the Public Utility Code was amended to provide for a medallion system of regulation for taxicabs in cities of the first class. The purpose of the Medallion Act was to upgrade and improve the operations of taxicabs in cities of the first class.

Section 2404(a) of the Medallion Act, 66 Pa.C.S. § 2404(a), directs the Commission to establish regulations pertaining to taxicab inspection and recording requirements in cities of the first class. Section 2409 of the Medallion Act, 66 Pa.C.S. § 2409, provides for the establishment of a driver certification program for drivers of taxicabs in cities of the first class. Further, section 2412 of the Medallion Act, 66 Pa.C.S. § 2412, provides that the Commission may prescribe such rules and regulations as it deems necessary to govern the regulation of taxicabs in cities of the first class. In accordance with 66 Pa.C.S.

§§ 2404(a), 2409 and 2412, the Commission instituted this rulemaking to propose additional regulations which apply specifically to call or demand carriers operating in cities of the first class.

On March 31, 1995, the Office of Attorney General issued a conditional approval of the proposed amendments as to form and legality. On April 11, 1995, copies of the proposed amendments were delivered for review and comment to the designated standing committees of both houses of the General Assembly and IRRC. The proposed rulemaking was published at 25 Pa.B. 1517.

Despite service of the proposed rulemaking on all medallion holders, comments to the amendments were limited to IRRC and the Democratic and Majority Chairpersons of the House Consumer Affairs Committee. We will address these comments seriatim, citing the specific section of the proposed amendments and the accompanying comment.

§ 30.13. Notices of lien.

\* \* \* \* \*

*(e) A person who obtains a judgment against a medallion holder may substitute a certified copy of the judgment for a Notice of Lien. The copy of the judgment shall be supplied with the names of the medallion holder and the judgment creditor, and address of the judgment creditor from which information concerning the judgment may be obtained, a mailing address of the medallion holder and the medallion number held by the medallion holder. The judgment creditor shall serve a copy of the judgment upon the medallion holder. The certified copy of judgment shall act as a Notice of Lien for Commission purposes only and shall not relieve a person from the requirements set forth under 42 Pa.C.S. §§ 3101—3260 (relating to the enforcement of money judgments for the payment of money).*

IRRC commented that the Medallion Act may preclude the substitution of a certified copy of a judgment for a notice of lien. IRRC also submitted that a certified copy of a judgment is not the same as a notice of lien since the application of a lien does not automatically follow the issuance of a judgment. IRRC supported the Commission's efforts to streamline the administrative process, but believed that this particular proposal is precluded by the Medallion Act.

The Medallion Act provides, in pertinent part: . . . All lenders or creditors who accept a medallion as security shall file with the commission a notice of lien which describes the transaction. A lien on a medallion is void by operation of law unless a notice of lien is filed with the commission. . . .

66 Pa.C.S. § 2403(a). (Emphasis added.) We agree with IRRC that a certified copy of a judgment is not identical to a notice of lien, as contemplated by the Medallion Act. Further, a lien does not necessarily attach to personalty by virtue of a judgment. 42 Pa.C.S. § 4303. Therefore, we withdraw this particular provision. A judgment creditor can make appropriate filings under the existing statutory and regulatory provisions.

§ 30.31. Vehicle equipment requirements.

\* \* \* \* \*

(6) A vehicle shall be equipped with a sealed meter that satisfies the requirements stated in § 29.314 (relating to vehicle and equipment requirements), and is calibrated in accordance with the approved tariff [and is].

*(i) The meter shall be able to pass an accuracy test given by a Commission enforcement officer.*

*(ii) Upon passing the accuracy test, a Commission numbered seal will be placed on the meter by a Commission enforcement officer. A taxicab may not operate without this Commission seal. If the seal become broken or damaged, carriers are required to immediately have the seal replaced by the Commission.*

\* \* \* \* \*

(11) A vehicle shall be marked, painted and designed in accordance with §§ 29.71(a) and (c) and 29.103 (relating to marking of vehicles; and simulating color or design). A vehicle shall also have painted or securely affixed on each side its medallion number in the same dimensions as that prescribed by § 29.71(a). Vehicle markings shall be removed in accordance with § 29.72 (relating to removal of markings).

IRRC commented that the word "immediately" in the proposed section in paragraph (6)(ii) is vague and may be difficult to comply with in the event that the seal would be broken during late evening hours or weekend hours when the Commission's office is likely to be closed for business. IRRC suggested that "immediately" be replaced with the phrase "no later than the next day of business at the PUC." IRRC also commented that paragraph (11) is vague to the extent that "securely" is capable of various interpretations.

We disagree with IRRC's comment regarding paragraph (6)(ii) of the proposed regulation. To adopt IRRC's proposal would invite fraud on the public by unscrupulous operators. The word "immediately" is not vague and accomplishes our purpose. However, we will modify this provision somewhat to reflect our concern that a taxicab with a broken seal on its meter be immediately removed from service. As for paragraph (11) we agree with IRRC's comment and modify the regulation accordingly.

§ 30.33. Inspection of vehicles.

\* \* \* \* \*

(c) Inspection after issuance, reissuance or transfer of a medallion. Vehicles bearing medallions shall be subject to additional inspections to ensure continued compliance with the vehicle equipment safety requirements of §§ 30.31 and 30.32, as follows:

\* \* \* \* \*

*(6) A Commission enforcement officer or a police officer employed by a city of the first class may order a vehicle which has been placed out-of-service for safety violations to be reinspected by a Commission enforcement officer to ensure compliance with §§ 30.31 and 30.32. If the vehicle is not in compliance with § 30.31 or § 30.32, the medallion will be removed from the vehicle and held by the Commission until the vehicle does comply with the requirements of §§ 30.31 and 30.32. If the vehicle does not comply within 6 months, the Commission may suspend the certificate of public convenience of that medallion holder and issue an Order to Show Cause why that certificate of public convenience should not be cancelled.*

IRRC questioned the Commission's authority to remove the medallion and suspend the certificate prior to notice and hearing. IRRC stated the Medallion Act provides that medallions are property and therefore protected by due

process principles. Likewise, a certificate of public convenience is a valuable privilege or right in the nature of property and is safeguarded by due process principles. IRRC believed that removing the medallion and suspending the certificate prior to notice and hearing could be violative of procedural due process.

In order to provide taxicab service in cities of the first class, one needs to obtain a certificate of public convenience from the Commission. See 66 Pa.C.S. §§ 2402—2404. A medallion is then issued which corresponds to that certificate. See 66 Pa.C.S. §§ 2402—2404. The Medallion Act provides that medallions are property. See 66 Pa.C.S. § 2403(a). The medallion is a piece of metal attached to the hood of a taxicab. See 52 Pa.Code § 30.2. Its primary function is to provide ready identification of a vehicle as being authorized to provide call or demand service. It has no intrinsic value beyond the licensing right it represents.

The Commission may suspend the operating privileges of any carrier without a hearing if its continued operations pose an immediate threat to the public safety. The primary concern of the Commission is to remove unsafe vehicles from public utility service immediately. However, suspending the operating privileges of a carrier is different from suspending the carrier's certificate of public convenience. We agree with IRRC that notice and hearing should be provided prior to suspension of a carrier's certificate of public convenience.

We disagree with IRRC's comment regarding the Commission's authority to remove a medallion from a vehicle that has already been placed out-of-service due to safety violations.<sup>1</sup> As noted above, the medallion, albeit property, has no intrinsic value beyond the licensing right it represents. A medallion holder has no use for a medallion beyond its affording him the opportunity to provide call or demand service. In the situation when a vehicle has been placed out-of-service, the medallion holder has no immediate or legitimate use for the medallion since he cannot operate the vehicle, with or without a medallion. By removing the medallion until the vehicle meets Commission safety requirements, the medallion holder loses nothing.

The removal of a medallion from a vehicle that's been deemed unsafe and placed out-of-service aids the Commission in its enforcement efforts. The vehicle in question will be readily identifiable to Commission enforcement officers and the public as not being authorized to provide taxicab service. The removal of the medallion will prevent unscrupulous operators from continuing to operate equipment that is unsafe.

We are cognizant that, as a general rule, an individual must be given the opportunity for a hearing before he is deprived of any significant property interest. *Shah v. State Board of Medicine*, 139 Pa.Cmwlth. 94, 589 A.2d 783 (1991). However, there are situations when a predeprivation hearing is not required when it is not practical under the circumstances to provide such predeprivation relief. *Shah*. In *Parratt v. Taylor*, 451 U.S. 527, 539, 101 S.Ct. 1908, 1915, 68 L.Ed.2d 420 (1981), the Supreme Court stated that it is permissible to dispense with the ordinarily required predeprivation hearings due to:

[E]ither the necessity of quick action . . . or the impracticability of providing any meaningful predeprivation process can, when coupled with the availability of some meaningful means by which to assess the propriety of the state's action at some time after the initial taking, satisfy the requirements of procedural due process.

In *North American Cold Storage Co. v. Chicago*, 211 U.S. 306, 29 S.Ct. 101, 53 L.Ed 195 (1908), the Supreme Court upheld the right of a state to seize and destroy unwholesome food without a pre seizure hearing. The possibility of erroneous destruction of property was outweighed by the fact that the public health emergency justified immediate action and the owner of the property could recover his damages in an action at law after the incident. In *Ewing v. Mytinger & Casselberry, Inc.*, 339 U.S. 594, 70 S.Ct. 870, 94 L.Ed. 1088 (1950), the Supreme Court upheld under the Fifth Amendment Due Process Clause the summary seizure and destruction of drugs without a pre seizure hearing.<sup>2</sup>

In light of the threat to public safety presented by continued operation of a vehicle that has been placed out-of-service for safety violations, we believe that removal of the medallion from that vehicle, prior to hearing, is not violative of the medallion holder's due process rights. First, as we stated previously, the medallion is not a significant property interest once a vehicle has been placed out-of-service. Second, the Commission is not revoking or cancelling the medallion, but only removing it from the vehicle. The medallion holder retains his inherent rights associated with his ownership of the medallion. Removal of the medallion from the vehicle simply precludes the medallion holder from operating an unsafe vehicle in taxicab service, a restriction already in place by virtue of the vehicle being placed out-of-service. Third, even if the medallion does represent a significant property interest, we believe that the threat to the public safety posed by continued operation of an unsafe vehicle justifies dispensing with the necessity of a predeprivation hearing. We will, however, provide for a postdeprivation hearing within ten (10) days of removal. We believe that providing a timely postdeprivation hearing satisfactorily protects the interests of the medallion holder, since the duration of the deprivation prior to hearing is relatively short.

We note that we have deleted the last portion of the proposed regulation since those issues contained therein will be dealt with in the postdeprivation hearing.

§ 30.72. Standards for obtaining a taxi driver's certificate.

\* \* \* \* \*

(i) *Disqualification for failure to be truthful on application. A taxi driver's certificate will not be issued to an individual who knowingly makes any false statement on a driver's certificate application. If, after issuance of a certificate, it is determined that an applicant knowingly made a false statement on the driver's certificate application, or provided false information on any documents submitted, the certificate will be suspended or cancelled.*

(j) *Immediate disqualification. The Commission will immediately disqualify an individual and confiscate their taxi driver's certificate when the individual's driver's license has been suspended or revoked, their taxi driver's certificate has expired, or their certificate has been obtained in a fraudulent manner. In addition, the certificate of a driver who has Commission penalties outstanding will be confiscated by a Commission enforcement officer or by a police officer employed by a city of the first class and held by the Commission's District Office until the penalties are satisfied in full.*

IRRC commented that § 30.72(i) may be violative of a driver's right to procedural due process since it allows for the suspension or cancellation of a certificate without notice and an opportunity to be heard prior to the suspension or cancellation. IRRC also commented that § 30.72(j) may be violative of a taxi driver's due process rights, since it provides for immediate disqualification when a taxi driver obtained the certificate in a fraudulent manner.<sup>3</sup> IRRC argued that since the issue of fraud is factual in nature, confiscation prior to notice and hearing may be violative of due process. Further, the Attorney General questioned whether immediate confiscation of a driver's certificate is permissible for a driver's failure to pay outstanding penalties.

These comments highlight the delicate position the Commission is in to balance the due process rights of the taxi driver against the need to ensure the public's health and safety. Sometimes, predeprivation hearings are not possible due to the immediate and clear dangers that continued operation poses to the health or safety of the public. While we hoped that our proposed amendments had properly balanced these concerns, we are persuaded that some modification is necessary. However, we reiterate that due process is not perfect process, and our modifications do not call for predeprivation hearings in all circumstances.

The final regulations continue to call for immediate suspension of a taxi driver's certificate when the certificateholder made a false statement on the application which impacts upon the public health or safety. We recognize that this determination may involve factual issues. However, the presence of factual issues does not, in and of itself, require a predeprivation hearing in circumstances that would otherwise warrant immediate suspension. For instance, if the Commission is advised by the State Police that a driver submitted a false criminal records history with his application, the Commission may be compelled to act swiftly if the fraud was serious; such as, the driver tried to hide a murder conviction. Under these circumstances, while factual issues may be present, the Commission does not believe that predeprivation hearings would be required. Further, factual issues may be present in those situations which IRRC agreed that the Commission may dispense with predeprivation hearings; that is, when a certificateholder's driver's license has been suspended or revoked or when a certificateholder's taxi driver's certificate has expired. These circumstances necessarily involve resolution of factual issues, yet do not require predeprivation hearings.

We note that we have deleted that portion of the proposed amendments which confiscated a driver's certificate from an individual who failed to pay outstanding Commission penalties. The rationale for the deletion is

that the Commission would, in light of the comments, only confiscate the driver's certificate following hearing. This is a procedure already available to the Commission and need not be specifically delineated by regulation.

We note that despite receiving no comments, we have also amended proposed § 30.76(e) to be consistent with due process considerations discussed above.

§ 30.73. Expiration and renewal of certificate.

(a) A taxi driver's certificate shall expire [2 years from the date of issuance] *in the month of the licensee's birth date at intervals of no more than 2 years from previous issuance.* A taxi driver's certificate is renewable on or [before] *within 60 days of its expiration date upon submission of an application, a fee and satisfactory records as required by § 30.72(a)—(c) (relating to standards for obtaining a taxi driver's certificate).*

IRRC commented that this provision may be vague, since the phrase, "within 60 days," may mean prior to or subsequent to expiration. We agree with IRRC's comment and modify the section accordingly.

Although we received no comments on the proposed revision to § 30.55, we have decided that the proposed revision needs further modification. The original revision to this provision was designed to give the Commission more discretion to adjust default penalties. Upon further reflection, we believe that it is not necessary to escalate the amount of the penalty in the case of default beyond the amount of the original proposed fine. The section is modified accordingly.

Finally, we note that the Democratic Chairperson and the Majority Chairperson of the House Consumer Affairs Committee encourage the inclusion of a fine schedule in this rulemaking. We have considered this comment and will incorporate a fine schedule. The fine schedule presents a range of allowable fines for particular violations. This flexibility is essential to effective enforcement of the Medallion Act and Commission regulations. Repeat offenders may be more severely punished than first-time offenders. We believe that providing the fine-range satisfies the industry's need to know the consequences of various violations as well as the Commission's need to have some flexibility in its enforcement endeavors.

Having considered all comments filed to the proposed rulemaking, we believe the regulations as set forth in Annex A should be adopted as the final rulemaking.

Accordingly, under sections 501, 2404(a), 2409 and 2412 of the Public Utility Code, 66 Pa.C.S. §§ 501, 2404(a), 2409, 2412 and the Commonwealth Documents Law (45 P. S. § 1201 *et seq.*), and regulations promulgated thereunder at 1 Pa. Code §§ 7.1—7.4, we find that regulations governing taxicab service in cities of the first class shall be amended. *Therefore,*

*It is Ordered that:*

1. The regulations of the Commission, 52 Pa. Code Chapter 30, are amended by amending §§ 30.31, 30.33, 30.54, 30.55, 30.72—30.76; and by adding §§ 30.34 and 30.77 to read as set forth in Annex A with ellipses referring to the existing text of the regulations.

2. The Secretary shall submit this order and Annex A to the Office of Attorney General for approval as to the legality.

3. The Secretary shall submit this order and Annex A to the Governor's Budget Office for review of fiscal impact.



4. The Secretary shall submit this order and Annex A for formal review by the designated standing committees of both Houses of the General Assembly, and for formal review by IRRC.

5. The Secretary shall deposit this order and Annex A with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

6. The Secretary shall serve copies of this order and Annex A upon each of the commentators.

7. These amendments shall become effective January 29, 1997.

*(Editor's Note: The proposal to amend § 30.13 (relating to notices of lien), included in the proposal at 25 Pa.B. 1517, has been withdrawn by the Commission. The addition of §§ 30.34 and 30.77 was not included in the proposal at 25 Pa.B. 1517.)*

JOHN G. ALFORD,  
*Secretary*

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 26 Pa.B. 5181 (October 26, 1996).)*

**Fiscal Note:** Fiscal Note 57-153 remains valid for the final adoption of the subject regulations.

**Annex A**

**TITLE 52. PUBLIC UTILITIES**

**PART I. PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Subpart B. CARRIERS OF PASSENGERS OR PROPERTY**

**CHAPTER 30. MEDALLION PROGRAM**

**Subchapter C. VEHICLE REQUIREMENTS**

**§ 30.31. Vehicle equipment requirements.**

Vehicles operated in citywide call or demand service in cities of the first class shall comply with the following requirements:

\* \* \* \* \*

(3) A vehicle shall have door hinges, latches and door locks in working order, and doors shall operate easily and close securely.

\* \* \* \* \*

(6) A vehicle shall be equipped with a sealed meter that satisfies the requirements in § 29.314 (relating to vehicle and equipment requirements) and is calibrated in accordance with the approved tariff.

(i) The meter shall be able to pass an accuracy test given by a Commission enforcement officer.

(ii) Upon passing the accuracy test, a Commission numbered seal will be placed on the meter by a Commission enforcement officer. A taxicab may not be operated without this Commission seal. If the seal becomes broken or damaged, the vehicle shall be removed from service immediately by either the medallion holder or the operator.

\* \* \* \* \*

(11) A vehicle shall be marked, painted and designed in accordance with §§ 29.71(a) and (c) and 29.103 (relating to marking of vehicles; and simulating color or design). A vehicle shall also have painted or permanently affixed on each side its medallion number in the same dimensions

as that prescribed by § 29.71(a). Vehicle markings shall be removed in accordance with § 29.72 (relating to removal of markings).

\* \* \* \* \*

(13) A taxicab may not be equipped with a device that has the capability of allowing the meter to register a nonapproved rate. If found, this device will be confiscated by a Commission enforcement officer or by a police officer employed by a city of the first class and disposed of by the Commission's District Office.

**§ 30.33. Inspection of vehicles.**

\* \* \* \* \*

(c) *Inspection after issuance, reissuance or transfer of a medallion.* Vehicles bearing medallions shall be subject to additional inspections to ensure continued compliance with the vehicle equipment safety requirements of §§ 30.31 and 30.32, as follows:

\* \* \* \* \*

(6) A Commission enforcement officer or a police officer employed by a city of the first class may order a vehicle which has been placed out-of-service for safety violations to be reinspected by a Commission enforcement officer to ensure compliance with §§ 30.31 and 30.32. If the vehicle is not in compliance with § 30.31 or § 30.32, the medallion will be removed from the vehicle and held by the Commission. A hearing on the matter will be held within 10 days following the date of removal.

\* \* \* \* \*

**§ 30.34. Fines for violations.**

Fines for violations of this subchapter range from \$250 to \$1,000 per violation.

**Subchapter D. FIRST CLASS CITY COMPLAINT PROCEDURES**

**§ 30.54. Proceedings on complaints.**

(a) A complaint instituted under this subchapter will be assigned to a special agent or an administrative law judge who will serve as the presiding officer in the case.

(b) A presiding officer will conduct hearings on a public complaint within 15 days after the filing of an answer to a public complaint. This 15-day time limitation does not apply to the scheduling of hearings on a private complaint which will be scheduled by the Commission within 90 days after the initiation of the proceeding consistent with 66 Pa.C.S. § 332(g) (relating to procedures in general).

(c) Telephone hearings may be held in the presiding officer's discretion.

(d) Hearings may be tape recorded unless the presiding officer determines that the hearing should be transcribed by a stenographer. Requests for stenographic transcription and the reasons therefor shall be presented in the complaint or answer. In the event of an appeal of the Commission's order, a transcription of the tape recorded hearing shall be made by a court reporter approved by the Commission.

(e) The presiding officer may require the filing of briefs prior to the issuance of a decision although briefs will only be required in extraordinary circumstances upon the express direction of the presiding officer. Proposed findings of fact and conclusions of law may, at the presiding officer's discretion, be submitted to the presiding officer within 5 days after the close of the record.

(f) The presiding officer will render a decision within 30 days after the hearing or within 30 days after receipt of the proposed findings, if any are filed. The decision will be in writing, and will contain a brief description of the subject matter of the proceedings, findings of fact and conclusions of law.

(g) The presiding officer's decision will not be subject to exception or administrative appeal, although the Commission may exercise a right of review of a presiding officer's decision within 15 days of issuance. A party may not file an exception or appeal before the Commission, and the Commission will exercise its right of review solely at its own discretion. If the Commission does not review a decision, the decision will become a final order without further Commission action. If the Commission does exercise its right of review, that review shall be exercised subject to 66 Pa.C.S. § 332(h) (relating to procedures in general).

§ 30.55. Default orders.

(a) If an answer to a public complaint, instituted under § 30.52(b) (relating to commencement of complaints) is not filed within 15 days after the service of the complaint, the Commission will issue a default order sustaining the complaint and assessing the fine, as proposed in the complaint, against the respondent.

(b) Default orders will not be issued by the Commission in private complaint proceedings. When no answer to a private complaint has been filed, the Commission will schedule a hearing to determine the penalty to be imposed on the respondent.

Subchapter F. DRIVER REGULATIONS

§ 30.72. Standards for obtaining a taxi driver's certificate.

\* \* \* \* \*

(j) *Disqualification for failure to be truthful on application.* A taxi driver's certificate will not be issued to an individual who knowingly makes any false statement on a driver's certificate application.

(k) *Suspension of taxi driver's certificate.* A taxi driver's certificate will be immediately suspended and confiscated when the certificateholder's driver's license has been suspended or revoked, the certificateholder's taxi driver's certificate has expired, or the certificateholder made a false statement on the application which impacts upon the public health or safety. A hearing on the suspension will be held within 30 days of the date of suspension.

§ 30.73. Expiration and renewal of certificate.

(a) A taxi driver's certificate shall expire in the month of the licensee's birth date at intervals of no more than 2 years from previous issuance. A taxi driver's certificate is renewable on or within 60 days prior to its expiration date upon submission of an application, a fee and satisfactory records as required by § 30.72(a)—(c) (relating to standards for obtaining a taxi driver's certificate).

(b) A certified taxi driver whose certificate has not expired or has not been suspended or cancelled will not be required to retake the certification examination required by this subchapter at the time of biannual renewal.

(c) A certified taxi driver shall comply with § 30.72(a)—(c) and will be liable to the disqualifications in § 30.72(f)—(i).

§ 30.74. Display of current certificate.

(a) A certified taxi driver shall carry and display an original taxi driver's certificate on the protective shield (dividing the front from the rear of the cab) of the taxicab on the driver's side with the front of the certificate (picture) facing the rear seat at all times during operation.

(b) A certified taxi driver may not operate with a mutilated, damaged or unreadable certificate.

(c) No more than one taxi driver's certificate may be displayed at one time.

§ 30.75. Driver standards.

\* \* \* \* \*

(h) *Drivers responsible for administrative paperwork.* A driver is responsible for the timely and accurate completion of the passenger log to be maintained in each taxicab as well as for the forms and documents required to be maintained in the taxicab.

(1) A driver as well as the medallion holder, is responsible for the posting of maps of service areas, a schedule for fares with letters and numbers at least 1/2 inch in size, and the driver standards as described in subsections (b)—(d) and (f) in plain sight of the passengers at all times in the taxicab that the driver operates.

\* \* \* \* \*

(m) *Report of change of address required.* A certificated taxi driver or taxi driver's certificate applicant shall notify the Commission's District Office within 15 days after a change of the address recorded on the certificate application. The notice shall be in writing and shall contain the old and current address and the number of any taxi driver's certificate then held by the person.

(n) *Report of change of legal name required.* A certificated taxi driver or taxi driver's certificate applicant shall notify the Commission's District Office within 15 days after a change of the legal name recorded on the certificate application. This notice shall be in writing and shall contain the old and current legal name and the number of any taxi driver's certificate then held by the person.

§ 30.76. Violations.

(a) *General.* This subchapter is equally applicable to owner-drivers, wage-drivers and lease-drivers. A medallion holder is responsible for compliance with this subchapter by the drivers employed by the medallion holder or to whom the medallion holder leases taxicabs.

(b) *Character of offenses.* A violation of this subchapter is, for the first offense, a nontraffic summary offense, and a misdemeanor of the third degree for each offense thereafter.

(c) *Duration of suspension or cancellation.* A violation of this subchapter may result in the suspension or cancellation of a taxi driver's certificate or the assessment of a civil penalty, or both. Suspension of a taxi driver's certificate shall be of a duration that the Commission or the presiding officer will determine upon the facts and circumstances of each case. Cancellation of a taxi driver's certificate is final.

(d) *Mandatory cancellation.* A driver will have his taxi driver's certificate cancelled in the following circumstances:

(1) An individual who operates a taxicab in a city of the first class while his taxi driver's certificate is then under suspension by the Commission shall have his certificate cancelled.

(2) A certified taxi driver who has been twice suspended under this chapter shall have his taxicab driver's certificate cancelled upon a third violation occurring within 3 years of the date of entry of the first suspension.

(3) A certified taxi driver who operates a taxicab in a city of the first class while under the influence of alcohol, an amphetamine or a formulation of an amphetamine, a narcotic drug or a derivative of a narcotic drug shall have his taxicab driver's certificate cancelled.

(4) A certified taxi driver who operates a taxicab and who knowingly transports, possesses or unlawfully uses a drug or narcotic proscribed by The Controlled Substance, Device and Cosmetic Act (35 P. S. §§ 780-101—780-144) shall have his taxicab driver's certificate cancelled.

(5) A certified taxi driver who leaves the scene of a motor vehicle accident involving that taxicab prior to rendering reasonable assistance to injured persons and who fails to report that accident to the police shall have his taxicab driver's certificate cancelled.

(6) A certified taxi driver who is convicted of a felony involving the use of a motor vehicle shall have his taxi driver's certificate cancelled.

(7) A certified taxi driver who is convicted of driving while his motor vehicle license is suspended or revoked shall have his taxicab driver's certificate cancelled.

(e) *Offenses by medallion holder.* Operation of a taxicab by an individual not holding a current and valid taxi driver's certificate may result in cancellation of the medallion holder's taxi driver's certificate or cancellation of the medallion holder's certificate of public convenience.

(f) *Aiding or abetting violations.* A person may not aid, abet, encourage or require a driver to violate this title or 66 Pa.C.S. (relating to the Public Utility Code).

\* \* \* \* \*

#### § 30.77. Fines for violations.

Fines for violations of this subchapter range from \$50 to \$1,000 per violation.

<sup>1</sup> IRRC did not challenge the Commission's authority to place an unsafe vehicle out-of-service without a hearing. Further, IRRC agreed that the Commission may take property or licensing rights without a hearing. For example, IRRC agreed that the Commission may confiscate a taxi driver's certificate in certain instances without a predeprivation hearing. Likewise, IRRC agreed that the Commission may confiscate and dispose of property without a predeprivation hearing. See 52 Pa. Code § 30.31(13).

<sup>2</sup> In *Ewing*, there was no claim that the ingredients of the preparation were harmful or dangerous to health. The sole claim was that the labeling was misleading to the injury or damage of the consumer.

<sup>3</sup> IRRC agreed that the Commission has the authority to immediately confiscate a driver's certificate when a taxi driver is driving with a suspended or revoked license or when the taxi driver's certificate has expired.

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