S T A T E  O F  N E W  Y O R K

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2015-2016 Regular Sessions

I N  A S S E M B L Y

May 19, 2015

Introduced by M. of A. BENEDETTO -- read once and referred to the Committee on Cities

AN ACT to amend the tax law and the administrative code of the city of New York, in relation to adding a surcharge for trips taken by pre-arrangement in for-hire vehicles in New York city

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subdivision (u) of section 1280 of the tax law, as added by chapter 9 of the laws of 2012, is amended and three new subdivisions (v), (w), and (x) are added to read as follows:

(u) "Dispatch trip" means a trip IN A FOR-HIRE VEHICLE THAT ORIGINATES WHEN A CUSTOMER CONTRACTS A FOR-HIRE VEHICLE BASE TO REQUEST SERVICE AND THE FOR-HIRE VEHICLE BASE DISPATCHES THE SERVICE REQUEST TO THE DRIVER OF THE FOR-HIRE VEHICLE. DISPATCH TRIP INCLUDES A TRIP in a HAIL vehicle that originated by a customer [calling] CONTACTING a HAIL base to request service and the HAIL base dispatching the [call] SERVICE REQUEST to the driver of the HAIL vehicle, and for which the taximeter is required to be in the recording or hired position designating such a trip.

(V) "FOR-HIRE VEHICLE OWNER" MEANS A PERSON LICENSED BY THE TLC TO OWN AND OPERATE A FOR-HIRE VEHICLE FOR WHICH THE TLC HAS ISSUED A FOR-HIRE VEHICLE LICENSE. THIS TERM INCLUDES A HAIL VEHICLE OWNER AS DEFINED IN THIS SECTION.

(W) "FOR-HIRE VEHICLE LICENSE" MEANS THE AUTHORITY GRANTED BY THE TLC TO AN OWNER TO OPERATE A FOR-HIRE VEHICLE, INCLUDING A HAIL VEHICLE.

(X) "FOR-HIRE VEHICLE BASE" MEANS A PERSON OR ENTITY WHO OR WHICH IS LICENSED PURSUANT TO SECTION 19-511 OF THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK FOR THE PURPOSE OF DISPATCHING FOR-HIRE VEHICLES AND WHICH IS PERMITTED BY THE TLC TO BE AFFILIATED WITH HOLDERS OF FOR-HIRE VEHICLE LICENSES. THIS TERM INCLUDES A HAIL BASE AS DEFINED IN THIS SECTION.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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S 2. Section 1281 of the tax law, as amended by chapter 9 of the laws of 2012, is amended to read as follows:

S 1281. Imposition of tax. In addition to any other tax imposed by this chapter or other law, there is hereby imposed on every taxicab owner a tax of fifty cents per taxicab trip [and], on every HAIL base a tax of fifty cents per HAIL vehicle trip provided by every HAIL vehicle affiliated with the base AND ON EVERY FOR-HIRE VEHICLE BASE A TAX OF FIFTY CENTS PER DISPATCH TRIP PROVIDED BY EVERY FOR-HIRE VEHICLE DISPATCHED BY SUCH BASE, on every trip that originates in the city and terminates anywhere within the territorial boundaries of the MCTD.

S 3. Section 1282 of the tax law, as amended by chapter 9 of the laws of 2012, is amended to read as follows:

S 1282. Presumption of taxability. For the purpose of the proper administration of this article and to prevent evasion of the tax imposed by this article, it shall be presumed that every taxicab trip [and], every HAIL vehicle trip AND EVERY DISPATCH TRIP that originates in the city is subject to the tax imposed by this article. This presumption shall prevail until the contrary is proven, and the burden of proving the contrary shall be on the person liable for tax.

S 4. Subdivisions (a), (c) and (d) of section 1283 of the tax law, subdivisions (a) and (c) as amended and subdivision (d) as added by chapter 9 of the laws of 2012, are amended to read as follows:

(a) The taxicab owner or [HAIL] FOR-HIRE VEHICLE base, as the case may be, shall be liable for the tax imposed by this article.

(c) (1) Although the tax is imposed on the taxicab owner or the [HAIL] FOR-HIRE VEHICLE base, the city or the TLC shall adopt or amend ordinances or regulations to ensure that the economic incidence of the tax is passed through to passengers, such as by increasing taxicab or HAIL vehicle trip fares. The passing along of such economic incidence may not be construed by any court or administrative body as imposing the tax on any person other than the taxicab owner or the [HAIL] FOR-HIRE VEHICLE base. The city or the TLC must adjust trip fares to include therein the pass-through of the economic incidence of the tax imposed by this article, as the rate of such tax may from time to time change, and must timely require that any taximeter in a taxicab or HAIL vehicle used to provide trips that originate in the city AND THAT FARES CHARGED BY FOR-HIRE VEHICLE BASES FOR DISPATCH TRIPS THAT ORIGINATE IN THE CITY be adjusted to include the pass-through.

(2) A taxicab owner or a HAIL base or HAIL vehicle owner in such city must timely adjust the taximeter in any of such person's taxicabs or HAIL vehicles so that it reflects such pass-through as such pass-through amount may from time to time change. A FOR-HIRE VEHICLE BASE IN SUCH CITY MUST TIMELY ADJUST FARES FOR DISPATCH TRIPS SO THAT THEY REFLECT SUCH PASS-THROUGH AS SUCH PASS-THROUGH AMOUNT MAY FROM TIME TO TIME CHANGE.

(3) Neither the failure of such city or the TLC to adjust fares, nor the failure of a taxicab owner, HAIL base, HAIL vehicle owner, or other person to adjust a taximeter, NOR THE FAILURE OF A FOR-HIRE VEHICLE BASE TO ADJUST FARES FOR DISPATCH TRIPS will relieve any person liable for the tax imposed by this article from the obligation to pay such tax timely, at the correct rate.

(d) Nothing in this article shall be construed as limiting the imposition of any tax imposed by article twenty-eight of this chapter on transportation service provided by a [HAIL] FOR-HIRE VEHICLE base, [HAIL] FOR-HIRE vehicle, or owner or operator of a [HAIL] FOR-HIRE vehicle. Nor shall anything in article twenty-eight of this chapter be

construed as limiting the imposition of any tax imposed by this article on a [HAIL] FOR-HIRE vehicle trip or as limiting the obligation on a [HAIL] FOR-HIRE VEHICLE base to pay such tax.

S 5. Subdivisions (a) and (b) of section 1286 of the tax law, subdivision (a) as amended and subdivision (b) as added by chapter 9 of the laws of 2012, are amended to read as follows:

(a) Every person liable for any tax imposed by this article shall keep:

(1) records of every taxicab or HAIL vehicle trip originating in the city and [of] RECORDS OF EVERY DISPATCH TRIP ORIGINATING IN THE CITY, INCLUDING all amounts paid, charged or due thereon and of the tax payable thereon, in such form as the commissioner may require;

(2) a true and complete copy of every contract, agreement, or arrangement concerning the lease, rental, or license to use a taxicab for which the person is required to remit the tax on trips imposed by this article on such person;

(3) a true and complete copy of every contract, agreement, or arrangement concerning the appointment of an agent;

(4) a true and complete copy of every contract, agreement, or arrangement concerning the affiliation of a [HAIL] FOR-HIRE vehicle or of a [HAIL] FOR-HIRE vehicle owner or driver with a [HAIL] FOR-HIRE VEHICLE base;

(5) true and complete copies of any records required to be kept by the TLC; and

(6) such other records and information as the commissioner may require to perform his or her duties under this article.

(b) Every person that has contracted with the city or TLC to provide services to the city, to the TLC, or to persons liable for tax under this article relating to taximeters, to administering taximeters or to information obtained from taximeters, and every person that the TLC has authorized to obtain or possess information generated by taximeters OR RELATING TO DISPATCH TRIPS, shall keep true and complete copies of all meter AND DISPATCH TRIP information.

S 6. Subdivision (b) of section 1287 of the tax law, as amended by chapter 9 of the laws of 2012, is amended to read as follows:

(b) Notwithstanding the provisions of subdivision (a) of this section, the commissioner may, in his or her discretion, permit the proper officer of the city or the duly authorized representative of such officer, to inspect any return filed under this article, or may furnish to such officer or such officer's authorized representative an abstract of any such return or supply such person with information concerning an item contained in any such return, or disclosed by any investigation of tax liability under this article; but such permission shall be granted or such information furnished only if the city or the TLC shall have furnished the commissioner with all information requested by the commissioner pursuant to this article and shall have permitted the commissioner or the commissioner's authorized representative to make any inspection of any records or reports concerning taxicabs, taxicab owners, agents, [HAIL] FOR-HIRE VEHICLE vehicles, [HAIL] FOR-HIRE vehicle owners, and [HAIL] FOR-HIRE VEHICLE bases filed with or possessed by such city or the TLC which the commissioner may have requested from such city or the TLC. Provided, further, that the commissioner may disclose to the city or the TLC whether or not a person liable for the tax imposed by this article has paid all of the tax due under this article as of any given date.

S 7. Section 1289 of the tax law, as amended by chapter 9 of the laws of 2012, is amended to read as follows:

S 1289. Cooperation by city. The city and the TLC shall cooperate with and assist the commissioner to effect the purposes of this article and the commissioner's responsibilities under this article. Such cooperation shall include the city or TLC obtaining, furnishing, and timely updating current, complete and accurate names, addresses and all other information concerning every (1) taxicab owner, operator, and driver of taxicabs in the city, (2) agent and vehicle owner, and (3) [HAIL] FOR-HIRE VEHICLE base, [HAIL] FOR-HIRE vehicle owner, [HAIL] FOR-HIRE vehicle, and driver of a [HAIL] FOR-HIRE vehicle, and the trip records and other records of any of them, in the city's possession or in the possession of any of its agencies, instrumentalities, agents, contractors, or any other person the TLC has authorized or required to obtain or possess such records or information, together with any other information the commissioner requests, all in a format prescribed by, and without cost to, the commissioner. The TLC shall also furnish, or cause to be furnished, in a format prescribed by the commissioner, any records or information in the possession of the TLC, any agent or contractor of the city or the TLC, or any other person the TLC has authorized or required to obtain or possess such records or information, concerning the persons liable for the tax imposed by this article, including, among other things, detailed trip record information. Such cooperation shall also include the TLC assigning identifying numbers and other identifying indicia to [HAIL] FOR-HIRE VEHICLE bases, [HAIL] FOR-HIRE vehicle owners, [HAIL] FOR-HIRE vehicles, and drivers of [HAIL] FOR-HIRE vehicles in a format prescribed by the commissioner, so as to facilitate filing returns, paying tax, and performing other tasks required to administer the tax imposed by this article.

S 8. Section 19-508 of the administrative code of the city of New York is amended by adding a new subdivision d to read as follows:

D. THE COMMISSION BY RULE MAY PERMIT OR REQUIRE LICENSED FOR-HIRE VEHICLES TO CARRY EQUIPMENT TO RECORD TRIP INFORMATION, INCLUDING THE LICENSING OF BUSINESSES WHICH MANUFACTURE AND PROVIDE SUCH EQUIPMENT TO THE OWNERS OF TAXICABS AND LICENSED FOR-HIRE VEHICLES.

S 9. This act shall take effect on the ninetieth day after it shall have become a law.