

ATTN: Commissioner Meera Joshi
Taxi and Limousine Commission
33 Beaver Street
New York, NY 10004

I, the undersigned, hereby petition the Taxi and Limousine Commission to grant, consider, and adopt the following rule to be included in the appropriate section of the Rules Governing the Taxi and Limousine Commission, as it is written and in its entirety.

Proposed Language of the Rule

All applications for smartphones, tablets, laptops, notebooks or any other interface used to arrange and pay for For-Hire Vehicle (FHV) rides throughout New York City and under the jurisdiction of the Taxi and Limousine Commission (TLC) are hereby required to have an in-application gratuity option. The entire amount of the gratuity option is to be given directly to the driver.

Statement of the TLC's Authority to Promulgate the Rule and its Purpose

The Commission has the authority to promulgate such a rule under Chapter 52 of the New York City Administrative Code, including but not limited to §52-04 Specific Powers and Duties of the Commission (a) Powers and Duties with Respect to Regulating (1) Formulate and adopt rules reasonably designed to carry out the purposes of the Commission. (2) Set and enforce standards and conditions of service. (3) Establish and enforce standards of safety, comfort, convenience, operational efficiency, and compliance with good public policy in the design of vehicles and auxiliary equipment. (4) Establish and enforce standards to ensure all Licensees are and remain financially stable. (5) Establish and enforce standards for insurance and minimum coverage. (6) Establish and enforce standards for record-keeping and reporting. (7) Develop and implement a broad public policy of transportation as it pertains to the forms of public transportation regulated by the Commission. (8) Encourage and provide procedures to encourage innovation and experimentation relating to type and design of equipment, modes of service and manner of operation. (9) Provide assistance to the public transportation businesses and industries regulated by the Commission to continually develop and improve public service, safety, and convenience, including assistance in securing federal and state grants.

The purpose of this proposed rule is to conform the practice of tipping drivers of for-hire vehicles in New York City with the use of FHV-applications for the benefit of the drivers and the convenience of the consumer.

Petitioner's Argument in Support of Adopting the Rule

Throughout history, drivers in New York City have made a significant portion of their income via tips. With the changes in technology such as the advent of credit card swipe machines and touch screens located within yellow cabs, the option to leave a tip using this screen has continued this long standing practice. This was a direct result of rules passed by this Commission.¹ In the past six years, bases like Uber, Lyft, Gett, etc. have become a dominant part of transportation in urban areas, especially our own. In the past two years, the number of yellow cabs in the city has declined by 5%, while the number of former yellow cab drivers registering as new FHV drivers has increased many times over.² The city and the TLC have, for the most part, taken the appropriate steps to assure that the traditions and practices of the FHV industry are in place with FHV-applications in order to protect the interests of the drivers. One area where this has not been the case is with respect to gratuities for the drivers. Unlike the touchscreens of a yellow cab or green cab, some FHV-applications do not contain a tip option for the consumers to give to the drivers. In fact, Uber's current policy on tipping states:

“The Uber app does not include a tip when billing you for a fare. In most cities, Uber is a cashless experience. Tipping is voluntary. Tips are not included in the fare, nor are they expected or required. As a rider, you are not obligated to offer your driver a gratuity in cash. If you decide you would like to tip, your driver is welcome to accept.”³

The current policy of the company is both confusing to riders, who are often unsure whether tipping is appropriate,⁴ and harmful to the income of drivers, some of whom are able to make a significant share of their income from tips.⁵ The proposed rule would make tipping a cohesive aspect of for-hire-vehicles in the city and support drivers' income, all while keeping the cashless, efficient, and convenient experience of using Uber.

Further, the addition of a voluntary tip option does not seem to be a technological/application issue. Where required, Uber's application currently permits in-app tipping. For instance, Uber's policy regarding uberTAXI reads: “Where available as a vehicle option, uberTAXI is an exception. uberTAXI connects riders with licensed yellow cabs, and includes the option to set a gratuity percentage added to your trip fare.”⁶

¹ NYCRR §67-15(a)

² From TLC Data, via “For Hire Vehicle Transportation Study,” City of New York, Office of the Mayor

³ From the Uber App

⁴ <https://www.bloomberg.com/news/articles/2016-04-22/tipping-is-coming-to-uber-and-it-s-going-to-be-awkward>

⁵ http://gothamist.com/2016/07/11/uber_drivers_are_campaigning_for_a.php

⁶ From the Uber App <https://help.uber.com/h/8459a496-5ed2-4f9d-b15c-d8afd9ccf34f>

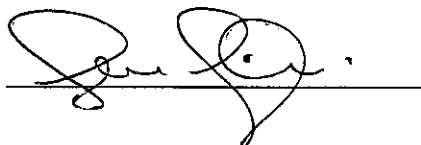
While further protections are needed for Taxi and Limousine Commission licensees, such as ensuring drivers can make a dignified living without being subject to the ruthlessness of an international market, requiring For-Hire Vehicle apps to offer a tipping option is a critical step to support the drivers who keep our city moving and are responsible for the safe transportation of hundreds of thousands of passengers each day.

Period of Time the Rule Should be in Effect

This rule shall be in effect indefinitely or until the Taxi and Limousine Commission implements a regulatory scheme that ensures drivers are earning a living wage.

Conclusion and Petitioner Information

To encourage public safety, a more fair economy, maintenance of customer costs while increasing the standard of living for For-Hire Vehicle drivers, we ask the Taxi and Limousine Commission to require an in-application gratuity option for For-Hire-Vehicle Applications (FHV-apps) for smartphones, tablets, laptops, notebooks or any other interface, and require the entire amount of the gratuity be given directly to the driver, throughout New York City and under the jurisdiction of the Taxi and Limousine Commission.



James M. Conigliaro Jr., Esq.
District 15, International Association of Machinists and Aerospace Workers, AFL-CIO
Independent Drivers Guild
652 4th Avenue
Brooklyn, NY 11232
(718) 422-0090