



PRIVATE FOR-HIRE TRANSPORTATION INNOVATION TASK FORCE RECOMMENDATIONS ON TAXIS AND TNCs

AUGUST 11, 2015

These recommendations focus on the City's management and regulation of taxicabs and Transportation Network Companies (TNCs). Recommendations on Limited Passenger Transportation (LPT) companies and non-vehicular forms of private for-hire transportation (e.g., jitneys, pedicabs) are yet to be developed.

Except where indicated:

- *Recommendations apply equally to taxis and TNCs.*
- *Phase 1 recommendations are unrevised.*

I. TASK FORCE CHARGE AND GUIDING PRINCIPLES

CHARGE

The Portland City Council, acting through the Office of the Mayor and the Office of Commissioner Steve Novick, convened the Private For-Hire Transportation Innovation Task Force (Task Force) in December 2014 to review and evaluate the service performance and regulatory framework of Portland's private for-hire transportation (PFHT) industry, and provide guidance and recommendations to the City Council regarding how the industry should evolve and respond to new developments in the industry, including the entry of Transportation Network Companies (TNCs). The Task Force, assisted by Cogan Owens Greene as a neutral Facilitator, has been asked to study available information, develop written recommendations, and submit its written recommendations to the Commissioner and City Council.

GUIDING PRINCIPLES

- A variety of modes of private for-hire transportation are accommodated.
- An environment is created so that taxi and TNC companies and drivers are able to compete based on efficient and effective delivery of services to passengers.
- No competitive advantage is granted to any provider for excluding classes of passengers or opting out of compliance with City, State or Federal standards.
- The ability for taxi and TNC drivers to earn a living wage is promoted.
- Reliable, timely and equitable services for all passengers and destinations in Portland are provided by both taxis and TNCs, including for disabled passengers.
- A realistic and effective enforcement component insures that T/TNCs and Drivers meet standards, regulations and codes.

- Consistent reporting from all for-hire entities is required.
- Regulations do not operate as a barrier to marketplace innovation.

II. PFHT PROGRAM FRAMEWORK

A. ASSIGNMENT OF RESPONSIBILITIES

1. Institute a PFHT framework in which all taxi and TNC companies with 15 vehicles or more are responsible for all aspects of regulatory compliance and certification, with data collection and analysis, compliance monitoring and enforcement, and education as the City's primary functions. For companies with 15 vehicles or less, provide a City permitting and certification program.
2. For each regulatory requirement, PBOT will, through administrative rule or other written notice, prepare specific standards to be met by PFHT companies and drivers including, but not limited to:
 - Specific measurable compliance metrics for each regulation
 - Measurement methodology
 - Frequency of compliance measurement
 - Required data from PFHT companies
 - Allowable variances based on relative impact of non-compliance.
3. Continue the pilot project assignment of permit authorization to the Commissioner-in-Charge; may be delegated to PBOT but not to PFHT Board.

B. PFHT ADVISORY COMMITTEE

4. Disband the existing PFHT Board and establish a PFHT advisory committee that is advisory to PBOT and the Commissioner-in-Charge, with joint annual reporting by PBOT and the Committee to City Council on the functioning of the PFHT program.
5. Ensure that the advisory committee includes diverse membership reflective and knowledgeable of the PFHT industry, including taxi and TNC companies.
6. Include Portland Police Bureau representation and consider adding representatives from the Portland Commission on Disabilities and an at-large community member with a disability.
7. Among its responsibilities, PBOT may request that the advisory committee review criteria for demand studies, ensure that there is a transparent process for public engagement, and assess current market conditions and emerging trends.
8. Establish as a core function of the group identifying ways of ensuring accessibility for all persons to all forms of PFHT transportation.
9. Institutionalize equity considerations into the group's decision-making process.

C. PROGRAM FUNDING AND STAFFING

10. Utilizing a sliding-scale, cost-recovery based approach, ensure adequate and consistent funding to implement all aspects of the PFHT program. Calculate and include in PBOT budget requests the full cost of establishing and staffing a permanent structure capable of administering permitting functions that remain within the City purview, setting standards, measuring compliance, following up with supplementary reviews for compliance, sanctioning for non-compliance and managing the compliance function.
11. Establish a “Cost of Compliance Measurement” document that describes workload hours and overhead for measuring compliance for use in calculating charges for follow-up compliance testing.
12. Assess the calculated cost of the program to PFHT companies in an equitable manner.
13. To the extent legally permissible, direct revenue from enforcement actions to the PFHT program.
14. A successful PFHT program will require sufficient and adequately trained staffing to support program administration, compliance monitoring and enforcement. City Council and PBOT need to ensure that the PFHT program has the staffing necessary to fully and effectively design and implement the recommended PFHT program.

D. COMPLIANCE/ENFORCEMENT

15. Implement a program for compliance by companies and drivers with PFHT regulations that includes:
 - Certification by companies of conformance to City standards for permitting drivers.
 - Random certification audits for all regulatory requirements.
 - Field compliance actions.
 - Complaint investigations.
16. Prepare a penalty matrix based on impact, degree and frequency of non-compliance. The schedule of penalties for non-compliance should be based on an escalation concept, with consideration given for improvements in compliance or increased penalties for continuing non-compliance.
 - Failure to comply findings are cumulative and across all regulatory monitoring.
 - Providing false information about WAV service will result in automatic penalty.
 - Failure to provide required data is considered non-compliance.
17. Generally levy penalties against companies rather than drivers, while providing PBOT flexibility to level penalties against drivers when appropriate (e.g., rogue drivers). Leave it to the companies to determine how drivers reimburse their companies for penalties assessed.
18. In assessing penalties and other enforcement actions, follow established City procedures of appeal to the City’s Code Hearings Officer, with subsequent appeal to Multnomah County Court.
19. Subjects of random sampling and other compliance measurement will be at the sole discretion of the PBOT Director.
20. Enable companies to voluntarily request audits without risk of penalty.
21. Continue to engage the Portland Police Bureau in discussing enhanced police involvement in enforcement of PFHT regulations.

E. REVIEW, EVALUATION AND REPORTING PROGRAM

22. Establish a clearly-described process to assess the performance of the PFHT program in achieving its objectives at established intervals of time, e.g. one and two years, or as soon as data and/or market conditions suggest the program needs to be evaluated to avoid unintended consequences.
23. Provide an annual report to City Council on the functioning of the PFHT program. Actively involve the PFHT advisory committee in the annual reporting process and include the Portland Commission on Disability in the review of the accessible services portion of the program.
24. Develop performance measures to assess both positive and negative conditions such as but not limited to:
 - Increased or decreased levels of congestion directly attributable to larger concentrations of PFHT vehicles in certain areas of the City.
 - Effects on PFHT drivers and/or companies attributable to unrestricted numbers of vehicles operating in the market, especially on smaller companies.
 - Whether there is a shortage or an excess in the supply of vehicles to meet demonstrated demand.
 - Accessibility service goals and standards.
 - Adequacy of revenues to fund administration of the PFHT program.
 - Safety concerns.
 - Environmental quality.

F. DATA REPORTING

25. As a condition for maintaining PFHT permits, require PFHT companies to provide all data identified by PBOT as essential to assess PFHT program performance and compliance with program regulations. Required data specifically includes but is not limited to:
 - Data on dispatched trips, street hail trips and pre-scheduled trips
 - Data sufficient to demonstrate 24/7 citywide coverage
 - Data on ride requests that are not filled.
26. Require submittal of data in formats and on a schedule established by PBOT; ensure that data formats and reporting protect company and driver privacy.
27. Delete existing Code requirements and specify data requirements via administrative rule.

G. COMMUNICATIONS AND EDUCATION/TRAINING

28. Provide a continuing program of education and training to companies and drivers on PFHT regulations, performance measures and standards, and other aspects of the program. Include on-line skills testing opportunities.
29. Ensure that the PFHT regulatory/compliance framework is easy for the industry to understand and easy for the City to administer.
30. Require defensive driving training to be completed by all PFHT drivers prior to drivers operating permitted vehicles.

31. Re-evaluate the requirement that other types of driver training (per National Highway Traffic Safety Administration standards) be completed within 120 days of receiving a permit.

III. OPERATION OF THE PFHT PROGRAM

A. CAPS ON NUMBER OF PFHT PARTICIPANTS (COMPANIES, VEHICLES, DRIVERS)

1. Establish no cap on the number of companies, drivers for, or vehicles operated by a permitted taxicab or TNC company.

B. PERMITTING

2. Continue to apply Pilot Project direction for permitting companies, drivers and vehicles based upon a shift in responsibility for permitting and certification from the public to the private sector and a sliding-scale, cost-recovery based permit fee program based on the number of vehicles under permit to a company.
3. Require proof of drivers' businesses licenses be provided to PBOT as part of certification.
4. Assess permitting fees to companies, rather than drivers.

C. FARE RATES/PRICING

5. Establish no cap on fares for any taxi or TNC company and allow dynamic fare rates.
6. Eliminate the requirement for a minimum taxi fare, except that if any company chooses to have a minimum fare it cannot exceed \$5.00.
7. Require all PFHT companies to register their base fares with PBOT.
8. Prohibit surge pricing during emergencies declared by the Mayor pursuant to City Code 15.04.040 and at all times for WAV vehicles.
9. Require that electronic or hard copy receipts be provided to passengers at completion of rides and require all PFHT companies to maintain records of all fares.
10. Re-evaluate regulations on fares at specific intervals of time to determine if a short-trip subsidy program is justified.

D. SIGNAGE/NOTICES

11. Continue to apply Pilot Project direction except, to aid both visibility to customers and to law enforcement, require front and back trade dress for all PFHT vehicles that is clearly visible at a distance of no less than 50 feet. Authorize PBOT to modify or develop additional vehicle signage requirements if appropriate to ensure visibility to riders and for enforcement.
12. For purposes of passenger and driver safety, require digital security camera systems in any taxicab that accepts hailed rides.
13. Require inclusion of drivers' business license numbers and company complaint phone numbers on apps.

14. Apply pilot project requirements for cameras or digital records to all PFHT companies.

E. HAILING

15. Continue to prohibit street hailing anywhere for TNCs.

16. Continue to prohibit parking in designated taxi zones for all PFHT vehicles except taxis.

17. Assess an automatic fine against PFHT vehicles except taxis that are documented as accepting street hails or parking in designated taxi zones. If more than one violation by the same driver occurs within a 12-month period, automatically suspend the driver for one year.

IV. EQUAL ACCESS TO SERVICE

A. ACCESSIBLE SERVICES

1. Reiterate that the City assumes that all Federal and State ADA requirements will be met by all PFHT companies.

2. Require that all PFHT companies provide Wheelchair Accessible Vehicle (WAV) service 24/7, either through use of their own vehicles or by contracting for this service. Taxi and TNC companies must provide this service 24/7.

3. During an initial monitoring period of no more than one year, establish no minimum WAV fleet size. Re-evaluate the WAV program at that time.

4. Functional Standards: Recognizing that not all vehicles in circulation may meet all standards, establish functional standards for WAV vehicle capacity, loading/unloading, and other features essential to safe and convenient transport of wheelchair users. Functional standards should address:

- Interior vehicle configuration that allows for optimal passenger seating for at least one additional passenger.
- Protocols for safe loading (out of traffic).
- Safety features, e.g., 4 point tie down, shoulder belt.
- Accommodation of forward facing of wheelchairs.

5. Performance Standards: Require all companies to demonstrate that they meet or exceed performance standards for WAV service:

- Response Time : Response time means the time between receipt of a request for private for hire transportation (by phone, mobile app, email, SMS or other means of communication but not including street hails or prearranged requests) and the arrival of a taxi or TNC vehicle at the rider's location.
- Performance Objective: The average Response Time for all requests for non-accessible private for hire transportation shall be periodically determined by the City using an $[n]$ minutes or less, 95% percent of the time formulation (where $[n]$ is the baseline). The average Response Time for all requests for accessible private for hire transportation shall be

- [baseline x 2] minutes or less, 95% percent of the time (implemented within one year of adoption).
- In applying a performance objective for response time, recognize that some parts of the City may be served slower due to factors such as geography and population density.
6. Fractal Compliance: Evaluate compliance based on the percentage of time a company achieves the response time goal. This approach recognizes that there will always be times when something goes wrong – human error or accident. The City would then be able to differentiate between a single ride failure and a company-wide service failure.
 7. Pre-arranged Trips:
 - Require that pre-arranged trips be delivered as scheduled.
 - Require all companies to accommodate advance recommendations for WAV trips.
 8. Communications:
 - Require that dispatch services (whether app, phone, or internet) provide direct access to WAV vehicles.
 - Provide mechanisms for direct communication between drivers and passengers (e.g., confirm need for WAV, provide ETA, and communicate re: ramp deployment).
 - Provide request and cancel ride options and complaint mechanisms that are accessible across all platforms and across all disabilities.
 - Ensure that directions on apps follow WC3 guidelines and American Disabilities Act Section 503 requirements. Apps must include an accessibility feature with instructions on how to request a WAV.
 - Require the driver to notify the passenger if expected ETA changes and do so as early as possible.
 - Provide devices in all vehicles or apps for communication with hearing impaired/deaf passengers (e.g., paper and pen, I-pad).
 - Provide payment options for passengers who have visual impairment (e.g., voice mode on passenger-operated credit card machine).
 9. Service Animals: Require accommodation of service animals in all PFHT vehicles.
 10. Service to Non-Wheelchair Users: As needed, develop level of service standards applicable to service to persons with disabilities who are non-WAV users.
 11. Pricing: Prohibit surge pricing for WAV transportation and assess no additional charge for at least the first additional passenger accompanying a WAV user.
 12. SAT Vehicles:
 - Authorize non-WAV Specially Attended Transportation (SAT) vehicles that are operated by permitted taxi companies to be used for any type of PFHT service.
 - Authorize WAV SAT vehicles that are operated by permitted taxi companies to be used for WAV use only.
 13. Accessible Transportation Fund: To assist in financing WAV services, institute an Accessible Transportation Fund that is used as an incentive to help ensure that the higher cost of providing WAV trips is not a barrier to companies and drivers providing such trips. A goal is to incentivize drivers, not just companies.

- Authorize the City to collect a per ride surcharge (e.g. \$0.10) for all PFHT rides, including WAV rides.
 - Develop a City-administered incentive program, with reimbursement to all PFHT companies and/or drivers for the higher cost of WAV vehicles and trips. Reimbursement should be based upon a per-ride multiplier (e.g., 275% x fare of comparable non-WAV ride).
 - As a condition of participation in the incentive program, require companies to provide the City with documentation on each WAV trip provided.
 - Develop a program of routine auditing to authenticate the WAV trips provided.
 - Assess the viability and mechanics of the Fund on an annual basis. If the concept of a centralized dispatch program is explored as an alternative, consult with the Commission on Disabilities.
14. Training: Require companies to provide procedural, safety and communications training, with certification by PBOT of the training programs, for all WAV vehicle drivers, including driver training in communications with persons with various forms of disability.
15. Data Collection: Establish a program for collection of data from TNCs and taxi companies on WAV usage.
- To assist in establishing a baseline, request from taxi companies historic data (for the two years preceding the pilot project) on WAV service.
 - To facilitate the collection of data on non-availability of vehicles, require TNCs to advise WAV requesters to record on the app when service is not available.
 - Require reporting of unfilled requests for WAV rides by all companies.

B. CITYWIDE SERVICE

16. Maintain current requirements for service citywide, 24 hours per day, 7 days per week, for taxi and TNC companies.
17. Except when a destination is more than 50 miles in distance, prohibit a PFHT company from refusing a fare already accepted, unless there is a real or perceived safety threat to the driver or it conflicts with a company's driver shift policy (vehicle is required to be returned by a specific time due to a shift change).

V. SAFETY AND WORKING CONDITIONS

A. INSURANCE

1. Maintain pilot project insurance requirements for taxi and TNC companies and drivers.
2. When new insurance products become available, PBOT should investigate options to normalize coverage between taxi and TNC companies to the extent practical.
3. Require taxi and TNC companies to provide primary insurance for all periods of coverage.
4. As part of their driver certification processes, require taxi and TNC companies to inform drivers of the scope and limitations of insurance coverage, accident reporting procedures, and other

insurance related requirements. Companies must advise their drivers that drivers' personal automobile insurance may not permit the use of personal vehicles for commercial purposes and that drivers need to consult with their insurance companies and lenders regarding such limitations.

5. Require companies to certify with PBOT their programs of driver education on insurance coverage and limitations.
6. Require TNC drivers to have available at all times in their vehicles for passenger and law enforcement inspection hard copy proof of insurance for Periods 1-3.

B. DRIVER BEHAVIOR

Caps on Hours of Driving

7. Reduce current aggregated maximum of time on duty, including time “on duty” or “on app”, to 12 hours in any given 24-hour period. Responsibility for compliance rests with the driver, with PBOT monitoring compliance on a spot-check basis.
8. Require companies to provide PBOT with data on “on duty” or “on app” times of their drivers, tied to driver permit numbers.

Drug and Alcohol Policy

9. Continue to apply Code requirements for driver conduct to all forms of PFHT.
10. Specifically require TNCs to have and enforce zero tolerance policies.
11. Require that all companies submit their zero tolerance policies to the City for approval as part of the permitting process.
12. Include monitoring that zero tolerance policies are in place and being enforced as part of PBOT’s expanded monitoring in the new PFHT framework.

Other Aspects of Driver Conduct

13. Apply pilot project requirements to taxi and TNC companies.

C. EMPLOYMENT STATUS OF DRIVERS

14. No action by the Task Force is recommended absent direction from the State Bureau of Labor and Industries (BOLI).
15. Irrespective of a BOLI determination, the City should investigate appropriate measures to ensure PFHT drivers receive adequate wages and are afforded desirable working conditions.
16. If BOLI determines that drivers are independent contractors, explore other ways to upgrade drivers’ status, including the concept of dependent contractor.

D. DRIVER FEES AND KITTIES

17. Require transparency in driver payments and fees assessed by PFHT companies.
18. Establish no limitations (floor or ceiling) on driver kitties or fees assessed by PFHT companies.
19. Driver kitties or fees assessed by companies cannot be greater for WAV vehicles than those assessed for drivers of non-WAV vehicles.

E. EMPLOYMENT OF PERSONS WITH DISABILITIES

Through a separate subcommittee process and in consultation with vocational rehabilitation agencies and interests, assess options/feasibility of programs to encourage employment of persons with disabilities within the PFHT industry.

VI. OTHER CONSIDERATIONS

A. ENVIRONMENTAL FOOTPRINT

1. No action is appropriate at this time as conclusive data is unavailable and will require time to obtain.
2. Collect and analyze data PFHT companies for the specific purpose of assessing environmental impacts and, at established intervals of time, e.g. one and two years, evaluate whether specific measures are needed to address environmental quality. Develop performance measures for this periodic evaluation.
3. Partner with PSU and other local institutions in the assessment of data on PFHT trips and users, transit ridership, congestion, parking availability, distributional impacts (who benefits and who is burdened), and other factors.

B. MOBILE DISPATCH SERVICES

4. Include in Code, definitions for “dispatch” and “third-party dispatch companies”.
5. Require third-party dispatch companies to be affiliated with permitted PFHT companies (or the City if a centralized dispatch system is developed).
6. Develop authority for PBOT to permit and regulate third-party dispatch companies, including prohibiting drivers from driving directly for such companies rather than a permitted PFHT company.