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OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

Memorandum

MIAMI-DADE COUNTY

(Second Reading 10-02-07)

Amended
Agenda Item No. 7(M)

Date: June 5, 2007

To: Honorable Chairman Bruno A. Barreiro
and Members, Board of County Commissioners

From: George M. Burgess
County Manager

Subject: Ordinance amending for-hire regulations relating to providing compensation for the right to pick up passengers, passenger refusal and chauffeur agreements

O#07-149

RECOMMENDATION

It is recommended that the Board approve the attached ordinance that amends Chapter 31 Articles I and II relating to for hire vehicles by increasing the penalties for providing compensation for the right to pick up passengers ("buying of doors"). The amendment also increases penalties for refusing to transport a passenger. The amendment further requires that a summary of chauffeur agreement requirements be posted by a taxicab passenger service company.

SCOPE

This proposed ordinance has a countywide impact.

FISCAL IMPACT/FUNDING SOURCE

There is no fiscal impact to the County other than the potential for increased revenues due to penalties.

TRACK RECORD/MONITOR

The Consumer Services Department (CSD) is responsible for regulating for-hire transportation in Miami-Dade County.

BACKGROUND

The County recently received the Taxicab Study Final Report in which a variety of recommendations were made. This proposed amendment addresses issues that were either mentioned in the study as concerns or were the subject of specific study recommendations. Those issues are "buying of doors", passenger short trip refusals, and enforcement of a Code requirement that receipts be provided to taxicab drivers for payments made to taxicab companies.

It has been illegal since 1981 for a business, including hotels and restaurants and their employees or contractors, to receive payment from the for-hire industry or others for the right to transport a passenger, or for a transportation company or a driver to provide compensation for that right. This practice is known as "buying of doors" (BOD). At the taxicab workshops conducted by Commissioner Dorrin D. Rolle in October and November 2006, drivers raised BOD as an ongoing concern.

CSD is committed to curtailing this practice and actively conducts enforcement operations to stop it. It is a difficult violation to prove as the exchange of compensation, that typically does not take place in plain view, must be observed. As complaints about BOD violations typically involve hotels, staff has worked closely with the Greater Miami and the Beaches

Hotel Association (GMBHA) to help prevent and address this practice; however, taxicab drivers continue to complain that it is prevalent.

When BOD violations are detected, penalties are assessed to the businesses, their employees and the participating driver. From May 2006 to April 2007, 53 BOD citations were issued: 17 to drivers, 19 to hotels or valet companies, and 17 to hotel or valet employees. Drivers have suggested that increasing the penalties would expand this enforcement tool and provide a further disincentive. This ordinance recommends that penalties for violations be increased from $500 to $1,000 for the first violation and $2,000 for subsequent violations. This ordinance also increases the potential period of suspension for violations from up to six (6) months to up to twelve (12) months, and adds the potential of revocation for repeat violations.

Sections 31-82 (j) (12) and 31-303 (i) (4) of the Code state that no license holder or driver may refuse to transport any orderly person requesting service. Trip refusals typically occur when a passenger's destination will result in a short trip and, therefore, an undesirable fare. Short trip refusals can be a serious problem that creates a negative image of the community as well as a negative impression of other professional taxicabs drivers that do not refuse passengers. Since 2002, 480 citations have been issued for passenger refusal. Additionally, CSD has recorded 278 passenger complaints for refusal in that same time period. It is likely, however, that most passenger refusals do not result in a complaint being filed. The Taxicab Study indicated there would be a persistent issue with passenger refusals at the Seaport if police and enforcement were not present, but this issue is not limited to the Seaport.

The attached ordinance amendment increases the penalty for refusing to transport a passenger from $100 to $250 for the first violation and to $500 for subsequent violations. Under Section 31-92 (a) of the Code as presently written, committing five (5) violations of Chapter 31 during any 12-month period may result in a license or registration being suspended for up to six (6) months or revoked. This ordinance amendment provides that for violations involving passenger refusal, only three (3) such violations in a 12-month period are required to trigger the suspension and revocation proceedings.

Lastly, this item amends Section 31-100 (j) of the Code relating to taxicab chauffeur agreements. This section currently requires each passenger service company to enter into a written chauffeur agreement with each chauffeur that contains specific information. Additionally, the company must provide itemized written receipts and accept multiple forms of payment. CSD periodically audits company records, inspects chauffeur agreements for meeting the minimum standards annually at time of license renewal, and follows up on any complaints received by chauffeurs that chauffeur agreement standards are not being followed. The amounts that are charged by license holders or taxicab companies cannot be regulated as a result of state law. The chauffeur agreement is intended to ensure that all charges are fully disclosed.

This amendment adds a provision that a sign summarizing the chauffeur agreement requirements be posted at the passenger service company to ensure that drivers are fully aware of their rights under the Code. This proposal is aligned with the Taxicab Study recommendation to vigorously enforce requirements that itemized receipts be provided for all payments, such as lease fees, insurance and radio charges, made by taxicab drivers to passenger service companies.

The proposals contained in the this amendment were discussed at two taxicab driver focus groups and CSD's Taxicab Advisory Group (TAG), which consists of representatives from industry, hospitality, municipalities, and others. All parties agreed to the recommendations. During the driver training sessions conducted by CSD, BOD, passenger refusals, and chauffeur agreements are covered topics.

Roger M. Carlton
Assistant County Manager

MEMORANDUM

(Revised)

TO: Honorable Chairman Bruno A. Barreiro and Members, Board of County Commissioners

DATE: October 2, 2007

FROM: R. A. Cuevas, Jr. County Attorney

SUBJECT: Amended Agenda Item No. 7(M)

Please note any items checked.

_____ "4-Day Rule" ("3-Day Rule" for committees) applicable if raised

_____ 6 weeks required between first reading and public hearing

_____ 4 weeks notification to municipal officials required prior to public hearing

_____ Decreases revenues or increases expenditures without balancing budget

_____ Budget required

_____ Statement of fiscal impact required

_____ Bid waiver requiring County Manager's written recommendation

_____ Ordinance creating a new board requires detailed County Manager's report for public hearing

_____ Housekeeping item (no policy decision required)

_____ No committee review

Approved _____ Mayor

Veto _____

Override _____

Amended

Agenda Item No. 7(M)

10-02-07

ORDINANCE NO. **07-149**

ORDINANCE RELATING TO VEHICLES FOR HIRE; AMENDING SECTIONS 31-76 AND 31-85 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA, WHICH PROHIBIT COMPENSATION FOR THE RIGHT TO PICK UP PASSENGERS; AMENDING SECTION 31-100 (J) TO REQUIRE POSTING OF A NOTICE REGARDING CHAUFFEUR AGREEMENTS AND IMPOSING PENALTIES; INCREASING PENALTIES FOR VIOLATIONS OF SECTIONS 31-76(A), 31-76(B), 31-82(J)(12), 31-85(J)(1), 31-85(J)(2), 31-100(J) AND 31-303(I)(4); AMENDING CHAPTER 8CC-10 RELATING TO CIVIL PENALTIES; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

Section 1. Chapter 31 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:[1]

Chapter 31

VEHICLES FOR HIRE

* * *

Sec. 31-76. Prohibition against compensation for right to pick up passengers.

a) It shall be unlawful for any passenger service company, for-hire license holder, chauffeur or operator

[1] Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

of any passenger vehicle for hire or any other person directly or indirectly to provide compensation in any form to any individual or entity or engage in any activity in connection with the payment of compensation for the right to pick up passengers or provide for-hire passenger service from any hotel, motel, apartment, restaurant, nightclub, bar, school, hospital, convalescent home, medical clinic or any other business establishment, or public facility. The license, registration or certificate of any passenger service company, for-hire license holder, chauffeur or operator of any passenger vehicle for hire violating this provision shall be subject to suspension [[~~up to six (6) months~~]] >>up to twelve (12) months for the first violation and shall be subject to revocation for repeat violations<< in accordance with the provisions of the Code.

* * *

ARTICLE II.

LICENSING AND REGULATION OF FOR-HIRE MOTOR VEHICLES

* * *

Section 31-85. Rules for operation.

* * *

(j) (1) No passenger service company, for-hire license holder, chauffeur or any other person shall directly or indirectly provide compensation in any form to any individual or entity or engage in any activity in connection with the payment of compensation for the right to pick up passengers or provide taxicab service from any hotel, motel, apartment, restaurant, nightclub, bar, or any other business establishment, or public facility. The license or registration of any passenger service company, for-hire license holder or chauffeur violating this provision shall be subject to suspension [[~~for up to six (6) months~~]] >>for up to twelve (12) months for the first violation and shall be subject to

revocation for repeat violations<< in accordance with the provisions of Section 31-91 or other appropriate enforcement action as provided in this article.

* * *

Section 31-92. Violations; penalties.

(a) In addition to any other penalties provided by law, including but not limited to those provided in this article, a violation of any applicable provision of this article by a for-hire license holder, registered passenger service company or registered chauffeur shall constitute a civil offense punishable by the applicable civil penalty as provided in the schedule of civil penalties in Section 8CC-10 of this Code. Failure of a person to pay a civil penalty within sixty (60) days of the due date for paying such fine as specified on the civil violation notice or within sixty (60) days of the date of the final outcome of any timely filed appeal of such violation notice, whichever is later, shall result in automatic suspension of such person's for-hire license, passenger service company registration, operating permit and chauffeur registration and all for-hire operations shall cease until such fine is paid in full. If a person commits five (5) violations of the same section of this chapter during any twelve-month period, such for-hire license, passenger service company registration, operating permit or chauffeur's registration shall be automatically revoked. If a person commits five (5) violations of this chapter during any twelve-month period, such person's for-hire license, passenger service company registration, operating permit or chauffeur's registration may be suspended for a period of up to six (6) months or revoked. >>Provided however, if a person commits three (3) violations of sections 31-82 (j) (12) or 31-303(i)(4) or any combination thereof during any twelve-month period, such person's for-hire license, operating permit or chauffeur's registration may be suspended for a period of up to six (6) months or revoked.<<

* * *

Section 31-100. Passenger service companies.

* * *

(j) *Requirement for chauffeur's agreement.* Each passenger service company shall enter into a written chauffeur's agreement with each chauffeur it allows to operate any for-hire vehicle for which the passenger service company provides passenger services. >>Each passenger service company shall post a sign summarizing the chauffeur agreement requirements stated herein. This sign shall be posted in a conspicuous place at the point of payment by the chauffeur and shall be written in a legible manner and pre-approved by the CSD.<< The written chauffeur's agreement:

(1) Shall provide for an express duration for the agreement;

(2) Shall only be terminated with at least thirty (30) days prior notice unless good cause be shown and only for the reasons stated therein;

(3) Shall state the full legal name and address (post office boxes shall not be acceptable) and respective passenger service company's and chauffeur's registration numbers;

(4) Shall state and itemize the compensation to be paid by the chauffeur for the right to operate a for-hire vehicle authorized by a for-hire license. It shall be unlawful for the passenger service company to receive any compensation from the chauffeur which is not specified in the existing chauffeur's agreement. The Agreement shall specifically provide that the compensation to be paid by a chauffeur may be paid utilizing any of at least two of the following: (1) cash, (2) money order, (3) certified check, (4) cashier's check, (5) valid traveler's check, (6) valid bank credit card, or (7) valid personal check showing on its face the name and address of the chauffeur. The chauffeur shall be allowed to make payment as provided in the preceding

sentence, and shall be provided with a written receipt which contains the name of the license holder or passenger service company, whichever is applicable, and the driver, the for-hire license number, payment amount and form of payment utilized, date of payment and the period covered by the payment;

(5) Shall state whether the passenger service company or the license holder shall be responsible for obtaining the required insurance for the for-hire vehicle;

(6) Shall state that the license holder shall obtain the operating permit and pay all application and vehicle inspection fees;

(7) Shall be signed by both the chauffeur and the passenger service company; and

(8) Shall include a sworn statement attesting to the truth of all representations made in the chauffeur agreement.

* * *

Section 2. Section 8CC-10 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

Section 8CC – 10. Schedule of civil penalties.

* * *

31-76 (a)	Providing compensation for the right to pick up passengers from or provide for-hire service to any business establishment or public facility	[[~~500.00~~]] >>1000.00 for first violation committed by any corporation, partnership or other legal entity other than an individual

		750.00 for first violation committed by any individual
31-76(a)	Subsequent violations	2000.00 when committed by any corporation, partnership or other legal entity other than an individual 1500.00 when committed by any individual<<
31-76 (b)	Prohibition against accepting compensation for right to pick up passengers.	[[~~500.00~~]] >>1000.00 for first violation committed by any corporation, partnership or other legal entity other than an individual 750.00 for first violation committed by any individual<<
>>31-76(b)	Subsequent violations	2000.00 when committed by any corporation, partnership or other legal entity other than an individual 1500.00 when committed by any individual<<

31-82(j)(12)	Refusal or neglect to transport	[[~~100.00~~]] >>250.00 for first violation
31-82(j)(12)	Subsequent violations	500.00<<
31-85(j)(1)	Providing compensation for the right to pick up passengers from or provide for-hire service to any business establishment or public facility	[[~~500.00~~]] >>1000.00 for first violation committed by any corporation, partnership or other legal entity other than an individual 750.00 for first violation committed by any individual<<
>>31-85(j)(1)	Subsequent violations	2000.00 when committed by any corporation, partnership or other legal entity other than an individual 1500.00 when committed by any individual<<
31-85(j)(2)	Prohibition against accepting compensation for right to pick up passengers	[[~~500.00~~]] >>1000.00 for first violation committed by any corporation, partnership or other legal entity other than an individual

		750.00 for first violation committed by any individual<<
>>31-85(j)(2)	Subsequent violations	2000.00 when committed by any corporation, partnership or other legal entity other than an individual 1500.00 when committed by any individual<<
>>31-100(j)	Failure to post notice	200.00<<
31-100(j)	Failure to enter into agreement with for-hire taxi license holder	500.00
31-303 (i)(4)	Refusal to transport passenger	[[~~100.00~~]] >>250.00 for first violation<<
>>31-303 (i)(4)	Subsequent violations	500.00<<

Section 3. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 4. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The

sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 5. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED: October 2, 2007

Approved by County Attorney as
to form and legal sufficiency: RAC

Prepared by: GKS

Gerald K. Sanchez