Testimony of Chair and Commissioner David Do
New York City Taxi and Limousine Commission
Before the City Council Committee on Transportation and Infrastructure
September 27, 2024
Oversight – TLC: For-Hire Vehicles, Commuter Vans and Other TLC Licensees

Good morning, Chair Brooks-Powers and members of the Committee on Transportation and Infrastructure. I am David Do, Chair and Commissioner of the New York City Taxi and Limousine Commission. With me is TLC's Deputy Commissioner for Policy and Community Affairs, James DiGiovanni, and the Department of Consumer and Worker Protection's Assistant Commissioner for External Affairs, Carlos Ortiz. We thank you for the invitation to provide an update on TLC's regulated industries and welcome the opportunity to start a dialogue on the TLC-related bills on the agenda.

As is typical when I've appeared before this Committee, I'll start with a general update on the TLC-regulated industries. As a whole, TLC-licensed vehicles now complete between 22 and 25 million trips each month, the highest level of activity since before COVID. In August of 2024, the high-volume sector—that's Lyft and Uber—completed over 18 million trips, about 90% of 2019 levels, and yellow taxis completed nearly 3 million trips, about 50% of their August 2019 trip count. Additionally, non-high-volume FHVs completed 1.3 million trips in July of 2024, 71% of their 2019 levels. Similar recoveries can be seen through other metrics including vehicle and driver counts. All the data I just referenced, and much more, can be found on TLC's new public data dashboard called the TLC Factbook, reflecting TLC's commitment to transparency.

I'd now like provide updates on several recent TLC initiatives and developments that I know are of interest to the Council, drivers, and members of the public.

As we wrap up Climate Week, TLC continues to support the City's climate goals. Earlier this week we released a new report titled *Electrification in Motion,* which analyzes data generated by the fleet of more than 10,000 EVs now performing trips and documents the rapid expansion of charging investments since the Green Rides Initiative launched in October 2023. Green Rides requires high-volume companies to dispatch exclusively to zero-emission or wheelchair accessible vehicles by 2030. I am pleased to report that we are already exceeding our 2025 benchmarks. In August, almost 20% of high-volume trips were dispatched to EVs or WAVs. This is largely thanks to the EV-only FHV licenses issued in late 2023 and early 2024, over 90% of which went to individual drivers. As discussed in the report, Green Rides is already having its desired effect of spurring additional charging infrastructure, including more than 200 new fast-charger stalls from Tesla and Revel, DOT fast chargers being installed in the Bronx, and an upcoming dramatic expansion of DOT's curbside Level 2 network in neighborhoods where TLC drivers live.

Another important regulatory change is the implementation of Local Laws 33 and 56 of 2024, sponsored by Council Member Farías, which allow in-vehicle advertising in FHVs. TLC held a public hearing in August and, in response to public testimony and input from the Council,

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will soon publish revised rules for an additional public hearing in October. While the process for these complex rules has taken longer than anticipated, we will be welcoming more feedback and look forward to adopting the new rules following that input.

As you know, one major concern in the for-hire industry is Uber and Lyft's restrictions on driver access to their platforms, commonly referred to as "lockouts." As background, in 2018, TLC commissioned a report by labor economists Dr. James Parrott and Dr. Michael Reich on the need for a minimum driver pay standard for app-based drivers. The report revealed that 85% of drivers were earning less than minimum wage; 80% of drivers bought their vehicles to drive for those platforms, taking on significant personal expense and risk; and driver earnings were declining. The report recommended a per-trip driver pay standard based on time, distance, and a utilization rate. The Council then passed Local Law 150 of 2018, directing TLC to establish such a pay standard.

The utilization rate, or UR, part of the formula is vital but also, frankly, has proven most challenging. The UR is the percentage of time drivers spend transporting passengers. If a driver works for eight hours but only transports passengers for four of those hours, their UR is 50%. Drivers are only paid for trips, so the UR is used as a multiplier to compensate them for all their working time. For example, if a driver would be paid $10 for a 30-minute trip, but the UR is 50%, that $10 is multiplied by two and the driver must be paid $20 for that trip. The lower the UR, the more the companies must pay per trip to compensate drivers for their cruising time. This incentivizes the companies to adequately manage their driver pool and keep drivers busy.

What we have seen is that instead of long-term driver supply management—not onboarding new drivers—the companies added new drivers to the platform, then periodically locked them out of the platform to increase their URs. In other words, the companies used periodic lockouts to avoid paying drivers more. This is unfair to drivers and defies the intention of TLC's rules and the underlying Local Law. In July, we were able to get the companies to end Uber's lockouts by Labor Day, increase Lyft's UR to 50% annually, and end both companies' onboarding of new drivers. We viewed this agreement as a short-term solution to get drivers immediate relief while TLC crafted a long-term answer in the form of rules. And the agreement has worked: Uber's lockouts have ended and the companies are not onboarding new drivers, and we plan to publish new rules to ensure that drivers are paid and treated fairly. I am looking forward to a robust public rulemaking process as we gather feedback from drivers and other stakeholders.

I will turn now to the commuter van sector and its important role in the transportation network of many outer borough communities. There are currently 35 commuter vans licensed by TLC, down from 215 in 2019. The primary issue faced by the commuter van industry is the high cost of insurance that meets state-mandated coverage levels. As one way to address these high costs, the state legislature allocated $11 million to the Commuter Van Stabilization Program, which is managed by Empire State Development and offers $40,000 to commuter van operators to offset insurance costs as well as funding to reimburse safety equipment upgrades such as dashboard cameras and driver assistance technology. We worked with ESD on this program and on industry outreach. I encourage our licensees to apply to the program and our former licensees to renew their TLC licenses to be eligible for these funds. TLC will continue to provide guidance

to state agencies and elected officials as ideas and approaches are presented to address insurance issues in the commuter van sector.

Another significant insurance issue facing TLC-licensed industries is the financial condition of American Transit Insurance Company, which insures about two-thirds of TLC-licensed taxis and FHVs. Earlier this month, the New York State Department of Financial Services, which regulates insurance and insurance providers, released a regulatory report on American Transit's financial condition, detailing their insolvency. The report also explains that this is not a new issue; the company's insolvency has been well known by regulators, policymakers, and others for over 40 years. While insurance is a significant expense for TLC drivers, American Transit essentially offered rates lower than their competitors by operating at a loss, which stifled competition. DFS is working diligently to address this issue with stakeholders, but a comprehensive approach, including legislative action, is likely needed to ensure the long-term stability of the for-hire insurance market. Most importantly, American Transit is continuing to provide insurance to TLC licensees during this critical period. I thank DFS for the collaborative approach they have taken on this matter and look forward to continuing to work with them and state policymakers to secure the long-term health of the taxi and for-hire insurance market.

Finally, you may have heard about recent developments in the lawsuit related to taxi accessibility. As ordered by the federal district court, TLC has proposed rules requiring all new taxis to be wheelchair accessible. Because this will have a major impact on the finances of the taxi industry, we will continue to work with stakeholders to determine how we can increase accessibility while ensuring the continued economic viability of the industry.

This brings us to the bills on the agenda, and I will start with the two bills relating to commuter vans. **Intro 939** would authorize commuter vans to accept street hails. Currently, TLC-licensed commuter vans are only authorized to provide pre-arranged service. TLC supports this legislation as a way to align local law with common industry practices and increase options in communities underserved by public transportation. However, it may be helpful to specify within the bill the geographic areas where street hails would be permitted, for example only in the outer boroughs.

Intro 950 would increase the number of violations required to revoke commuter van licenses from three to six violations and increase the timeframe from six months to 12 months. Additionally, it would increase the number of violations required to suspend authorization from two to three in a six-month period. So far in 2024, TLC has issued 47 safety-related violations to commuter vans, but zero of those summonses were to *licensed* commuter vans. Because of the negligible number of violations issued to licensed commuter vans, this bill as drafted may not have its intended effect. We welcome additional conversations with the sponsor to better understand the bill's intent and history to determine what actions may be appropriate to address those concerns.

Intro 277 would require taxi e-hail trips—such as those arranged by taxi apps Curb and Arro—to pay drivers at least as much as they would have received from a traditional street hail trip on the meter. This bill would effectively reverse studies and rulemaking efforts dating back to 2018, when TLC first launched the Flex Fare Pilot Program. Under this Pilot, e-hail app companies

were permitted to offer up-front prices to taxi passengers, allowing taxis to compete with Lyft and Uber for customers, as up-front pricing is a key factor that contributed to the growth of app-based FHVs. Granting the taxi industry that same flexibility is vital to ensuring their long-term competitiveness. Importantly, taxi drivers can decline e-hail trips if they're not satisfied with the up-front price; the choice to opt-in is theirs.

E-hails now represent between 5 and 10% of taxi trips, a small but important supplemental trip source for the industry at a time when taxi trips are still at about half of 2019 levels. TLC also analyzed fare and driver pay data, finding that per-mile take-home pay was slightly higher for Flex Fare than for metered trips and that average Flex Fare trips are longer than metered trips. Following our public hearing in response to stakeholder feedback, TLC also analyzed the driver pay data in alternative ways, finding that on trips with similar origins and destinations, Flex Fare trips paid slightly more than metered trips.

Based on all this analysis, and because Flex Fare is a small and optional part of the taxi sector, we determined that it would not be appropriate at this time to impose additional fare or pay requirements on taxi e-hail trips. Instead, we will continue to monitor Flex Fare's impact on the industry and may adopt additional requirements in the future as needed. Requiring e-hail trips to pay at the metered rate would harm taxi competitiveness and likely cause customers who prefer app-based dispatch to avoid the taxi industry altogether, reducing taxi trips by up to 10% and moving millions of dollars in revenue from taxis to Uber and Lyft. For these reasons, TLC opposes this bill at this time.

Intro 276 would prohibit high-volume companies from deactivating drivers without just cause or a bona fide economic reason. The Department of Consumer and Worker Protection, who would oversee this process, supports Intro 276. Arbitrary or unfair deactivations are financially devastating for app-based workers, as DCWP is well familiar with in the food delivery worker context, where they likewise support deactivation protections. Ultimately, DCWP's goal is to create fair labor standards for all that build upon past models of success that have been stood up by workers and their advocacy organizations. The Administration looks forward to working with the Council and stakeholders to create standard deactivation protections for these workers.

Lastly, **Intro 323** would require TLC to establish maximum rates for leasing, rentals, lease-to-own, and conditional purchases of for-hire vehicles. TLC recognizes the burden of high leasing costs, which is one reason why we targeted our issuance of new EV licenses to individual drivers, and why we have adopted FHV lease transparency rules. We are also currently conducting a study to ensure that our driver pay rules align with current operating costs, including lease costs. While TLC does regulate lease rates for taxis, differences between the sectors make setting FHV lease rates much more challenging. Makes and models in the for-hire sector are far more diverse than in the taxi sector. Unlike taxis, the FHV industry relies on a wide range of vehicle types to offer a variety of different services to passengers, from standard trips in compact sedans to premium services in luxury vehicles. Depending on their target market, a recent survey of drivers revealed that some may spend $40,000 on a new car while others spend over $100,000. Determining the

appropriate lease rates for such a wide range of vehicle types, makes, models, and years would be incredibly challenging, especially because lease prices typically include insurance, maintenance, and other costs that are difficult to capture. There is also much more variation in leasing arrangements for FHVs, from lease-to-own and conditional purchase arrangements to informal short-term rentals between drivers, each of which would need to be addressed with distinct regulatory approaches. While we are open to exploring additional ways to reduce the burden of leasing costs on drivers, we do not believe that establishing maximum rates is the best approach.

Thank you again for inviting me to provide an update on the TLC-regulated industries, address recent developments, and offer the Administration's position on the proposed bills. We look forward to continuing to work with you to ensure that New Yorkers can rely on the City's for-hire industry. I am now happy to answer any questions you may have.