

**Opn. No. 2002-5**

GENERAL BUSINESS LAW § 396-p(1); TRANSPORTATION LAW, ART. 7, §§ 151(11), 157-159; 17 N.Y.C.R.R. Part 730.

Taxicab operators may charge different fares at different times of day so long as those fares and the conditions under which they apply are conspicuously posted.

February 21, 2002

Marco Caviglia, Esq.  
Deputy Town Attorney  
Town of Poughkeepsie  
Town Hall  
1 Overocker Road  
Poughkeepsie, NY 12603

Informal Opinion  
No. 2002-5

Dear Mr. Caviglia:

You have asked, with regard to taxicabs operating wholly within the Town of Poughkeepsie, whether a taxicab operator may charge different fares for the same trip at different times of day.<sup>1</sup> We conclude that taxicab operators may charge different fares at different times of day so long as those fares and the conditions under which they apply are conspicuously posted.

The State Department of Transportation has broad authority to regulate most common carriers, see Transportation Law §§ 80(1), 150 et seq., and Article 7 of the Transportation Law includes provisions that govern rates and fares of common carriers of passengers by motor vehicles.<sup>2</sup> Section 151(11),<sup>3</sup> however, expressly exempts from these restrictions any taxi or livery service where such a service is conducted in vehicles having a seating capacity of 20 persons or less operating wholly within a town and where the pick-up and discharge points are determined by the passenger. Thus, Article 7 does not restrict a municipality from exercising its authority under the Municipal Home Rule Law to regulate such taxis or livery services. See id; see also Op. Atty Gen. (Inf.) No. 96-39.

You have advised that your town has a local law that prohibits taxicabs from transporting more than 14 passengers. The provisions of Transportation Law Article 7 would therefore be inapplicable to any taxicab licensed to do business wholly within the town. The town may, if it chooses, adopt a local law regulating this subject.

In the absence of such a law, the fares charged by taxi operators may vary according to the time of day. The provisions of General Business Law § 396-p(1) assume that taxicab operators may charge different fares under different conditions, requiring only that

[e]very taxicab available for hire in this state shall have posted, in the interior thereof, in a manner legible and conspicuous to passengers, a statement of the rates, fares or other charges . . . and if such charges are subject to variation, a statement of the conditions relating to such variation. No charges greater than those posted may be made.

Thus, unless otherwise prohibited by local law, a taxicab operator may charge different fares for trips having the same points of origin and destination depending on the time of day, provided that such rates and the conditions under which they vary are conspicuously posted.

The Attorney General renders formal opinions only to officers and departments of State Government. This performance is an informal and unofficial expression of the views of this office.

Very truly yours,

JAMES D. COLE  
Assistant Solicitor General  
In Charge of Opinions

By: \_\_\_\_\_  
EDWARD LINDNER  
Assistant Solicitor General

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<sup>1</sup> You have also inquired whether taxicab companies are required to provide fare information in a format independently accessible to blind passengers and whether there is a limit on the number of hours a taxi driver may drive. Because the Office of the Attorney General is involved in litigation related to your question regarding fare information for blind passengers, we decline to render an opinion on this portion of your inquiry. You have also inquired about the number of hours a taxi driver may drive. Because the Department of Transportation has statutory authority to regulate the hours of work for operators of common carriers, we have referred this question to DOT.

<sup>2</sup> See Transportation Law §§ 157-159 and its implementing regulations, 17 N.Y.C.R.R. Part 730.

<sup>2</sup> Section 151(11) exempts any:

taxi or livery service conducted in vehicles having a seating capacity of twenty passengers or less pursuant to the jurisdiction or regulatory control of a city, town or village when service is conducted wholly within such city, town or village and when such service is available to the general public on a prearranged or demand-response basis over a non-specified or irregular route with the point or points of pick-up and discharge determined by the passenger, but such taxi or livery service shall not include van service.

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