Testimony of Brendan Sexton, Executive Director
Independent Drivers Guild
Before the Taxi & Limousine Commission
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Good Morning Commissioners, my name is Brendan Sexton and I am the Executive Director of Independent Drivers Guild (IDG).

IDG is a nonprofit affiliate of the International Association of Machinists and Aerospace Workers (IAMAW) that represents over 70,000 working drivers throughout the for-hire vehicle industry. The IAMAW has been the only union to successfully organize black car workers in New York City, and has been doing so for over twenty years.

I want to thank the Commissioners and TLC staff for all the work you have done and all we have accomplished together over the last few years in providing real relief to 70,000 working families – specifically the approval of landmark driver income and transparency rules. And while this has provided some needed relief, ALL drivers across this industry, whether medallion, livery or app-based, are still struggling to survive and much work needs to be done.

Commissioners, we had a problem with predatory leasing companies before Local Law 147 of 2018 established a moratorium on the issuance of FHV licenses and, as we warned, the problem has only worsened over the last year. The vehicle cap means that thousands of existing drivers and all new drivers are stuck renting TLC vehicles instead of licensing their own vehicle. These drivers pay thousands more to rent than it would cost to own -- and have no vehicle at the end to show for it. Plain and simple, what a cap on FHV licenses has done is establish ***another failed medallion system,*** enabling predatory leasing companies and app-based companies to exploit and worsen the plight of working-class, mostly immigrant, FHV drivers. We need to learn from the mistakes of the past that have given undue power and influence to brokers, agents, owners and bosses and focus on policies that uplift drivers, providing them with the power to control their own destinies.

Predatory leasing companies have not only acquired and control thousands of NYC's FHV licenses, but have also taken advantage of this position of power by exploiting drivers through onerous and unfair leasing terms that keeps drivers under their control and in unbearable debt, preventing them from making a livable wage and making their own career decisions. A continuation of a permanent vehicle cap will only force many more low-income drivers into leasing rather than owning.

Most leases and rentals are priced way too high and when we limit the supply of vehicles, costs for drivers go up even higher, just as the cost of leasing taxi medallions went up in the 1990s. A poll of our members found that the typical driver who leases or rents ends up paying at least $10,000 more per year for vehicle expenses than a driver who owns their own vehicle. While we just won an average annual raise of $10,000 per year for app-based drivers, a permanent cap basically wipes out these gains for the thousands of drivers who are beholden to predatory leasing companies.

Without affordable options, this Commission's own study assumes the number of FHV vehicles shared by drivers engaged in shift work will triple under a continued vehicle cap. A permanent vehicle cap incentivizes a return to yellow taxi-like twelve hours shifts, which would be a huge step backward in working conditions for thousands of the city's professional drivers.

To make matters worse, the cap on vehicle licenses has also allowed app-based companies to take advantage of drivers and continue their exploitative practices. Since the vehicle cap went into effect in August, the commission has issued TLC driver licenses to more than 12,000 new drivers, authorizing as much as 50 million additional for-hire vehicle hours on our streets. You are now in a situation where you have many more FHV licensed drivers (187,000) than licensed vehicles (119,000). With no cap on new drivers entering the workforce, this dynamic has again shifted the power to the app-based companies who view the drivers as expendable. As a result, hundreds of drivers are deactivated every day, without cause and without any due process. This leaves drivers with no way to pay off their investments to enter the industry, their long-term vehicle leases and other debts -- let alone any way to support their families. This has created severe and desperate situations for drivers who have nowhere to turn for assistance.

Without a cap on drivers, the apps are also empowered to manipulate driver access to their apps for the companies' gains. The Commission's model of the proposed cruising cap and vehicle cap assumes that the app companies first response will be to slash fares and cut their own profits to a minimum before they start restricting driver access. But it comes as little surprise that the apps are protecting profits at the expense of drivers. App companies have begun blocking access to the apps for certain drivers, leaving thousands of drivers desperate, behind on bills, and not knowing when they will be able to work next. Lyft, for example, has launched this policy but exempted those drivers who rent or lease vehicles through Lyft's own leasing program, incentivizing drivers to pay Lyft upwards of $400 per week and further enriching the company.

There is a simple way to flip this dynamic and empower workers instead of empowering app companies, fleet owners, and predatory leasing companies. While a cap on TLC *vehicles* provides more power to leasing and app-based companies, limiting the number of new TLC *drivers* entering the workforce provides power and value to the existing drivers. Limiting the labor pool will require all companies to compete to keep drivers working for them, meaning the competition shifts away from the expendable driver mentality, a race to the bottom on driver pay -- and shifts to providing better working conditions, pay and benefits. At a time when city and state lawmakers continue adding more and more taxes and onerous policies to reduce FHV hours on our streets, it is unfair to both prospective and existing drivers to continue licensing unlimited new TLC drivers. If we need city or state legislation to accomplish this, then let's work together to make this happen.

With regard to allowing an exemption for electric vehicles, we support this proposal, but call upon TLC to work with its sister NYC agencies on establishing charging stations in each borough for drivers to park, rest, use a restroom and charge their vehicles. But let's be realistic about these exemption policies; without upfront and substantial financial assistance to purchase these vehicles which are more expensive to purchase, operate and maintain, it is unlikely that low income working drivers will be able to take advantage of this policy and become owners. These exemptions do not solve the problem of blocking ownership. Instead, these exemption policies seem geared toward fleet owners and leasing companies.

The IDG is calling on the TLC to: (1) establish a moratorium on new FHV DRIVER licenses, not vehicle licenses; (2) regulate leasing companies and the products they offer FHV drivers (including a cap on leasing costs); (3) Tie FHV licenses with driver licenses and prohibit any large leasing company, or any company affiliated with an app-based company, from holding any FHV license; (4) create a path to ownership for existing drivers by providing a preference for any newly issued vehicle licenses for drivers who currently lease and have done so for a specified period of time; and, last but not least (5) prevent app-based companies from deactivating drivers without a stated cause and ensure app-based companies provide drivers with due process with labor organization representation.

TLC has maintained in the past that they believe they do not have the authority to regulate leasing companies. Then why would you allow such companies to hold and control thousands of FHV licenses? If you allow them the privilege to obtain TLC vehicle licenses, why wouldn't you then be able to regulate how they lease their FHV cars to FHV drivers -- to regulate their FHV product? You cannot allow them to continue to take advantage of drivers in the very way brokers, banks and medallion owners have taken advantage of medallion drivers over the years. Here is another simple answer: prohibit any company that leases vehicles to FHV drivers from acquiring FHV licenses. Allow FHV drivers to control the leasing process and have the ability to get into a lease of their choice. Tie FHV licenses with driver licenses.

With regard to the Commission's proposed rules on utilization/cruising caps, our fear is that the TLC is creating an incentive for the app-based companies to slash pay for drivers and manipulate workers for the benefit of the app-based companies, exactly as Lyft has already decided to do. These proposed rules would:

- Impact overall pay by forcing drivers log off or be unable to log on;
- Prevent drivers from being paid for time and distance driving to places where they could log on to work or resume working as was required in the pay rules;
- Remove the ability of drivers to have control of when or where they work;
- Provides even more power to app-based companies to control and take advantage of drivers;
- Create dead-head situations whereby if driver takes a fare to the Manhattan core from another borough they can then lose the ability to get a fare out of Manhattan;
- Incentivize app companies to manipulate driver access to the app for their own gains
- Prevent drivers from working at the time and place of their choice;

We agree with the calls to postpone the vote. It seems rash to launch an additional cruising cap policy given what we have outlined above and before the company-specific utilization rate this commission passed in December has even gone into effect. We oppose adding this additional utilization policy at this stage. If the commission insists on adding yet another new policy to disincentivize FHV vehicle hours in the most congested areas of Manhattan at the most congested times, we propose an alternative policy of increasing the minimum pay rates in that zone at periods of peak congestion.

In sum, we thank you for this opportunity to speak on behalf of the more than 70,000 families who rely upon the app-based FHV industry. We need to do more to protect the drivers from the predatory and exploitative practices of both the leasing industry and app-based companies. Any newly adopted rules need to not only consider the impact on the drivers, but be proactive in uplifting the quality of life of each and every FHV driver, providing them with the power to control their own destiny. Commissioners, you have the power to make real change, meaningful reforms. Let's not let yet another opportunity be missed. We cannot only focus on the intended goal of reducing congestion, but of equal if not more importance is the plight of the drivers and their families -- or we risk history repeating itself.

Thank you and we look forward to continuing discussing these issues with you and the TLC staff.

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