

File No. 101067

Committee Item No. _____

Board Item No. 35

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Board of Supervisors Meeting

Date August 10, 2010

Cmte Board

- | | | |
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| ☐ | ☐ | Ordinance |
| ☐ | ☐ | Legislative Digest |
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OTHER

(Use back side if additional space is needed)

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Completed by: Annette Lonich Date August 5, 2010

Completed by: _____ Date _____

An asterisked item represents the cover sheet to a document that exceeds 25 pages.
The complete document is in the file.

INTRODUCTION FORM
By a member of the Board of Supervisors or the Mayor

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2010 AUG -3 PM 1:58

BY _____
Time Stamp or
Meeting Date AK

I hereby submit the following item for introduction:

- _____ 1. For reference to Committee:
_____ An ordinance, resolution, motion, or charter amendment.
X 2. Request for next printed agenda without reference to Committee
_____ 3. Request for Committee hearing on a subject matter.
_____ 4. Request for letter beginning "Supervisor _____ inquires...".
_____ 5. City Attorney request.
_____ 6. Call file from Committee.
_____ 7. Budget Analyst request (attach written motion).
_____ 8. Substitute Legislation File Nos.

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- | | |
|---|--|
| ☐ Small Business Commission | ☐ Youth Commission |
| ☐ Ethics Commission | ☐ Planning Commission |
| ☐ Building Inspection Commission | |

Note: For the Imperative Agenda (a resolution not on the printed agenda), use a different form.]

Sponsor(s): Supervisors Chu, Chiu, Mar

SUBJECT: Resolution Supporting Public Transit Facilities Bill – Assembly Bill 2324

The text is listed below or attached:

See attached.

Signature of Sponsoring Supervisor: _____


For Clerk's Use Only:

1 [Support Assembly Bill 2324 Regarding Public Transit Facilities]

2
3 **Resolution in support of Assembly Bill 2324 regarding Public Transit Facilities, making**
4 **it a misdemeanor for any person to knowingly possess specified weapons at a public**
5 **transit vehicle facility.**

6
7 WHEREAS, The Board of Supervisors of the City and County of San Francisco
8 recognize that safety on public transit and around public transportation areas is of paramount
9 importance; and,

10 WHEREAS, During the first four months of this year, there were over 100 criminal
11 incidents reported each month on Muni, including assault, robbery, and graffiti; and,

12 WHEREAS, Assembly Bill 2324, introduced by Assembly Member John A. Perez (D-
13 Los Angeles), aims to strengthen security for individuals who use buses, trains and other
14 public transportation systems; and,

15 WHEREAS, AB2324 would create a new crime and make it a misdemeanor for any
16 person to knowingly possess specified weapons at a public transit vehicle facility and
17 prohibits a person from intentionally engaging in dangerous activities that can jeopardize the
18 safety of transit personnel and passengers; and,

19 WHEREAS, The Assembly Bill would also prohibit a person from intentionally avoiding
20 screening and inspection when entering areas of an airport or passenger vessel terminal
21 which is generally controlled in a manner consistent with that public transit authority's security
22 plan; and,

23 WHEREAS, The City and County of San Francisco has several efforts underway to
24 improve safety for public transit riders, including a partnership between the Municipal
25 Transportation Agency (MTA) and San Francisco Police Department (SFPD); and,

1 WHEREAS, Local efforts coupled with statewide legislation will send a strong message
2 to the community that no crimes will be tolerated in our public transit areas; and,

3 WHEREAS, AB2324 is currently pending a vote in the Senate after being passed
4 unanimously by the Assembly, Senate Public Safety Committee and Senate Appropriations
5 Committee; now, therefore be it

6 RESOLVED, That the Board of Supervisors of the City and County of San Francisco
7 supports AB2324 and urges Governor Schwarzenegger to sign AB2324 if passed.
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AMENDED IN SENATE JUNE 10, 2010
AMENDED IN ASSEMBLY MAY 10, 2010
AMENDED IN ASSEMBLY MAY 4, 2010
AMENDED IN ASSEMBLY APRIL 5, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 2324

Introduced by Assembly Member John A. Perez

February 19, 2010

An act to amend Sections 602 and 640 of, and to add Section 171.7 to, the Penal Code, relating to transit.

LEGISLATIVE COUNSEL'S DIGEST

AB 2324, as amended, John A. Perez. Transit: public transit facilities. Existing law prohibits a person from knowingly possessing specified weapons and other items within any sterile area, as defined, of an airport or passenger vessel terminal, except as specified.

This bill would make it a misdemeanor, punishable as specified, for any person to knowingly possess at a public transit vehicle facility, as defined, specified weapons, if a notice is posted at the facility, as specified. By creating a new crime, the bill would impose a state-mandated local program.

Existing law prohibits an unauthorized person from knowingly entering any airport operations area or passenger vessel terminal, as defined, if the area has been posted with certain notices, *and makes this conduct punishable by a fine*. Existing law provides that a ~~person convicted of violating~~ *violation of* this provision is punishable by a specified fine or term of imprisonment, or both, ~~if he or she~~ *the person*

refuses to leave the area after being requested to do so by a peace officer or authorized personnel.

This bill would apply ~~this prohibition and penalty~~ *these prohibitions and penalties*, in addition, to *knowingly entering, and to entering and refusing to leave*, a public transit facility, as defined. By expanding an existing crime, the bill would impose a state-mandated local program.

Existing law prohibits a person from intentionally avoiding submission to screening and inspection when entering or reentering a sterile area of an airport or passenger vessel terminal, except as specified. Existing law provides that a violation of this prohibition that is responsible for the evacuation of an airport terminal or passenger vessel terminal is punishable by not more than one year in a county jail under certain circumstances.

This bill would apply this prohibition, in addition, to the sterile area of a public transit facility, if a notice is posted at the facility, as specified. This bill would recast the penalties for avoiding submission to screening to impose a \$500 fine for a first offense that does not result in an evacuation or delay, and a fine of \$1,000 and by imprisonment of not more than one year in a county jail for any 2nd or subsequent offense. For a first offense that results in the evacuation of the terminal or facility, as specified, this bill would impose a penalty of not more than one year in a county jail. By expanding an existing crime, the bill would impose a state-mandated local program.

Existing law provides that it is an infraction, punishable by a fine not to exceed \$250 and by specified community service, to evade the payment of any fare of, or engage in specified passenger misconduct on or in, a described facility or vehicle.

This bill would recast these provisions ~~and make~~, *making* some of these acts of misconduct misdemeanors upon a first offense ~~and make~~, *making* others of these acts of misconduct misdemeanors upon the 3rd or subsequent offense, ~~except that eating or drinking in or on a system facility or vehicle while providing that some would remain an infraction as infractions~~, as specified. ~~This bill would add the operation of an electronic personal assistive mobility device or motorized scooter in a system facility, vehicle, or parking structure to the list of activities that are misdemeanors on the 3rd or subsequent offense.~~ The bill would additionally make it a misdemeanor to willfully tamper with, remove, displace, injure, or destroy any part of any ~~light rail train or bus equipment~~ *facility or vehicle of a public transportation system*. By

creating a new crime and by increasing the penalties for existing crimes, the bill would impose a state-mandated local program.

~~Existing law makes it a misdemeanor punishable by a fine of not more than \$400, by imprisonment in the county jail for a period of not more than 90 days, or both, to willfully tamper with, remove, displace, injure, or destroy any part of any light rail train or bus equipment.~~

~~This bill would instead provide that this provision apply to any part of any facility or vehicle of a public transportation system. By creating a new crime, the bill would impose a state-mandated local program.~~

Existing law makes it an infraction to carry an explosive or acid, flammable liquid, or toxic or hazardous materials in a public transit facility or vehicle.

This bill would instead make it a misdemeanor, punishable as specified, to carry explosives, acids, or flammable liquids in a public transit facility or vehicle.

The bill would make additional technical amendments.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 171.7 is added to the Penal Code, to read:
- 2 171.7. (a) For purposes of this section:
- 3 (1) "Public transit facility" means any land, ~~buildings, and~~
- 4 ~~building,~~ or equipment, or any interest therein, including any
- 5 station on a public transportation route, to which access is
- 6 controlled in a manner consistent with the public transit authority's
- 7 security plan, whether or not the operation thereof produces
- 8 revenue, ~~which have as their~~ *that has as its* primary purpose the
- 9 operation of a public transit system or the providing of services to
- 10 the passengers of a public transit system. A public transit system
- 11 includes the vehicles used in the system, including, but not limited
- 12 to, motor vehicles, streetcars, trackless trolleys, buses, ~~shuttles,~~
- 13 light rail systems, rapid transit systems, subways, trains, ~~taxicabs,~~
- 14 or jitneys, that transport members of the public for hire.

1 (2) "Sterile area" means any portion of a public transit facility
2 that is generally controlled in a manner consistent with the public
3 transit authority's security plan.

4 (3) "Firearm" has the same meaning as specified in Section
5 12001.

6 (b) It is unlawful for any person to knowingly possess within
7 any sterile area of a public transit facility any of the following, if
8 the sterile area is posted with a statement providing reasonable
9 notice that prosecution may result from possession of these items:

10 (1) Any firearm.

11 (2) Any imitation firearm as defined in Section 417.4.

12 (3) Any instrument that expels a metallic projectile, such as a
13 BB or pellet, through the force of air pressure, ~~CO₂~~ CO₂ pressure,
14 or spring action, or any spot marker gun or paint gun.

15 (4) Any metal military practice hand grenade.

16 (5) Any metal replica hand grenade.

17 (6) Any plastic replica hand grenade.

18 (7) Any unauthorized tear gas weapon.

19 (8) Any undetectable knife, as described in Section 12001.1.

20 (c) (1) Subdivision (b) shall not apply to, or affect, any of the
21 following:

22 (A) A duly appointed peace officer, as defined in Chapter 4.5
23 (commencing with Section 830) of Title 3 of Part 2.

24 (B) A retired peace officer with authorization to carry concealed
25 weapons as described in subdivision (a) of Section 12027.

26 (C) A full-time paid peace officer of another state or the federal
27 government who is carrying out official duties while in California.

28 (D) A qualified law enforcement officer of another state or the
29 federal government, as permitted under the Law Enforcement
30 Officers Safety Act pursuant to Section 926B or 926C of Chapter
31 44 of Part 1 of Title 18 of the United States Code.

32 (E) Any person summoned by any of the officers listed in
33 subparagraphs (A) to (C), inclusive, to assist in making arrests or
34 preserving the peace while he or she is actually engaged in assisting
35 the officer.

36 (F) A person who is responsible for the security of the public
37 transit system and who has been authorized by the public transit
38 authority's security coordinator, in writing, to possess a weapon
39 specified in subdivision (b).

1 (2) Paragraph (1) of subdivision (b) does not apply to or affect
2 a person who is exempt from the prohibition against carrying a
3 handgun pursuant to Section 12025 if the carrying of that handgun
4 is in accordance with the terms and conditions of the exemption
5 specified in Section 12027.

6 (3) Paragraph (7) of subdivision (b) shall not apply to or affect
7 the possession of a tear gas weapon when possession is permitted
8 pursuant to Chapter 4 (commencing with Section 12401) of Title
9 2 of Part 4.

10 (d) A violation of this section is punishable by imprisonment
11 in a county jail for a period not exceeding six months, or by a fine
12 not exceeding one thousand dollars (\$1,000), or by both that fine
13 and imprisonment.

14 (e) The provisions of this section are cumulative, and shall not
15 be construed as restricting the application of any other law.
16 However, an act or omission that is punishable in different ways
17 by this and any other provision of law shall not be punished under
18 more than one provision.

19 (f) This section does not prevent prosecution under any other
20 provision of law that may provide a greater punishment.

21 SEC. 2. Section 602 of the Penal Code is amended to read:

22 602. Except as provided in subdivision (u), subdivision (v),
23 subdivision (x), and Section 602.8, every person who willfully
24 commits a trespass by any of the following acts is guilty of a
25 misdemeanor:

26 (a) Cutting down, destroying, or injuring any kind of wood or
27 timber standing or growing upon the lands of another.

28 (b) Carrying away any kind of wood or timber lying on those
29 lands.

30 (c) Maliciously injuring or severing from the freehold of another
31 anything attached to it, or its produce.

32 (d) Digging, taking, or carrying away from any lot situated
33 within the limits of any incorporated city, without the license of
34 the owner or legal occupant, any earth, soil, or stone.

35 (e) Digging, taking, or carrying away from land in any city or
36 town laid down on the map or plan of the city, or otherwise
37 recognized or established as a street, alley, avenue, or park, without
38 the license of the proper authorities, any earth, soil, or stone.

39 (f) Maliciously tearing down, damaging, mutilating, or
40 destroying any sign, signboard, or notice placed upon, or affixed

1 to, any property belonging to the state, or to any city, county, city
2 and county, town or village, or upon any property of any person,
3 by the state or by an automobile association, which sign, signboard
4 or notice is intended to indicate or designate a road, or a highway,
5 or is intended to direct travelers from one point to another, or
6 relates to fires, fire control, or any other matter involving the
7 protection of the property, or putting up, affixing, fastening,
8 printing, or painting upon any property belonging to the state, or
9 to any city, county, town, or village, or dedicated to the public, or
10 upon any property of any person, without license from the owner,
11 any notice, advertisement, or designation of, or any name for any
12 commodity, whether for sale or otherwise, or any picture, sign, or
13 device intended to call attention to it.

14 (g) Entering upon any lands owned by any other person whereon
15 oysters or other shellfish are planted or growing; or injuring,
16 gathering, or carrying away any oysters or other shellfish planted,
17 growing, or on any of those lands, whether covered by water or
18 not, without the license of the owner or legal occupant; or
19 damaging, destroying, or removing, or causing to be removed,
20 damaged, or destroyed, any stakes, marks, fences, or signs intended
21 to designate the boundaries and limits of any of those lands.

22 (h) (1) Entering upon lands or buildings owned by any other
23 person without the license of the owner or legal occupant, where
24 signs forbidding trespass are displayed, and whereon cattle, goats,
25 pigs, sheep, fowl, or any other animal is being raised, bred, fed,
26 or held for the purpose of food for human consumption; or injuring,
27 gathering, or carrying away any animal being housed on any of
28 those lands, without the license of the owner or legal occupant; or
29 damaging, destroying, or removing, or causing to be removed,
30 damaged, or destroyed, any stakes, marks, fences, or signs intended
31 to designate the boundaries and limits of any of those lands.

32 (2) In order for there to be a violation of this subdivision, the
33 trespass signs under paragraph (1) must be displayed at intervals
34 not less than three per mile along all exterior boundaries and at all
35 roads and trails entering the land.

36 (3) This subdivision shall not be construed to preclude
37 prosecution or punishment under any other provision of law,
38 including, but not limited to, grand theft or any provision that
39 provides for a greater penalty or longer term of imprisonment.

1 (i) Willfully opening, tearing down, or otherwise destroying
2 any fence on the enclosed land of another, or opening any gate,
3 bar, or fence of another and willfully leaving it open without the
4 written permission of the owner, or maliciously tearing down,
5 mutilating, or destroying any sign, signboard, or other notice
6 forbidding shooting on private property.

7 (j) Building fires upon any lands owned by another where signs
8 forbidding trespass are displayed at intervals not greater than one
9 mile along the exterior boundaries and at all roads and trails
10 entering the lands, without first having obtained written permission
11 from the owner of the lands or the owner's agent, or the person in
12 lawful possession.

13 (k) Entering any lands, whether unenclosed or enclosed by
14 fence, for the purpose of injuring any property or property rights
15 or with the intention of interfering with, obstructing, or injuring
16 any lawful business or occupation carried on by the owner of the
17 land, the owner's agent or by the person in lawful possession.

18 (l) Entering any lands under cultivation or enclosed by fence,
19 belonging to, or occupied by, another, or entering upon uncultivated
20 or unenclosed lands where signs forbidding trespass are displayed
21 at intervals not less than three to the mile along all exterior
22 boundaries and at all roads and trails entering the lands without
23 the written permission of the owner of the land, the owner's agent
24 or of the person in lawful possession, and

25 (1) Refusing or failing to leave the lands immediately upon
26 being requested by the owner of the land, the owner's agent or by
27 the person in lawful possession to leave the lands, or

28 (2) Tearing down, mutilating, or destroying any sign, signboard,
29 or notice forbidding trespass or hunting on the lands, or

30 (3) Removing, injuring, unlocking, or tampering with any lock
31 on any gate on or leading into the lands, or

32 (4) Discharging any firearm.

33 (m) Entering and occupying real property or structures of any
34 kind without the consent of the owner, the owner's agent, or the
35 person in lawful possession.

36 (n) Driving any vehicle, as defined in Section 670 of the Vehicle
37 Code, upon real property belonging to, or lawfully occupied by,
38 another and known not to be open to the general public, without
39 the consent of the owner, the owner's agent, or the person in lawful
40 possession. This subdivision shall not apply to any person described

1 in Section 22350 of the Business and Professions Code who is
2 making a lawful service of process, provided that upon exiting the
3 vehicle, the person proceeds immediately to attempt the service
4 of process, and leaves immediately upon completing the service
5 of process or upon the request of the owner, the owner's agent, or
6 the person in lawful possession.

7 (o) Refusing or failing to leave land, real property, or structures
8 belonging to or lawfully occupied by another and not open to the
9 general public, upon being requested to leave by (1) a peace officer
10 at the request of the owner, the owner's agent, or the person in
11 lawful possession, and upon being informed by the peace officer
12 that he or she is acting at the request of the owner, the owner's
13 agent, or the person in lawful possession, or (2) the owner, the
14 owner's agent, or the person in lawful possession. The owner, the
15 owner's agent, or the person in lawful possession shall make a
16 separate request to the peace officer on each occasion when the
17 peace officer's assistance in dealing with a trespass is requested.
18 However, a single request for a peace officer's assistance may be
19 made to cover a limited period of time not to exceed 30 days and
20 identified by specific dates, during which there is a fire hazard or
21 the owner, owner's agent or person in lawful possession is absent
22 from the premises or property. In addition, a single request for a
23 peace officer's assistance may be made for a period not to exceed
24 six months when the premises or property is closed to the public
25 and posted as being closed. However, this subdivision shall not
26 be applicable to persons engaged in lawful labor union activities
27 which are permitted to be carried out on the property by the
28 California Agricultural Labor Relations Act, Part 3.5 (commencing
29 with Section 1140) of Division 2 of the Labor Code, or by the
30 National Labor Relations Act. For purposes of this section, land,
31 real property, or structures owned or operated by any housing
32 authority for tenants as defined under Section 34213.5 of the Health
33 and Safety Code constitutes property not open to the general public;
34 however, this subdivision shall not apply to persons on the premises
35 who are engaging in activities protected by the California or United
36 States Constitution, or to persons who are on the premises at the
37 request of a resident or management and who are not loitering or
38 otherwise suspected of violating or actually violating any law or
39 ordinance.

(p) Entering upon any lands declared closed to entry as provided in Section 4256 of the Public Resources Code, if the closed areas shall have been posted with notices declaring the closure, at intervals not greater than one mile along the exterior boundaries or along roads and trails passing through the lands.

(q) Refusing or failing to leave a public building of a public agency during those hours of the day or night when the building is regularly closed to the public upon being requested to do so by a regularly employed guard, watchman, or custodian of the public agency owning or maintaining the building or property, if the surrounding circumstances would indicate to a reasonable person that the person has no apparent lawful business to pursue.

(r) Knowingly skiing in an area or on a ski trail which is closed to the public and which has signs posted indicating the closure.

(s) Refusing or failing to leave a hotel or motel, where he or she has obtained accommodations and has refused to pay for those accommodations, upon request of the proprietor or manager, and the occupancy is exempt, pursuant to subdivision (b) of Section 1940 of the Civil Code, from Chapter 2 (commencing with Section 1940) of Title 5 of Part 4 of Division 3 of the Civil Code. For purposes of this subdivision, occupancy at a hotel or motel for a continuous period of 30 days or less shall, in the absence of a written agreement to the contrary, or other written evidence of a periodic tenancy of indefinite duration, be exempt from Chapter 2 (commencing with Section 1940) of Title 5 of Part 4 of Division 3 of the Civil Code.

(t) Entering upon private property, including contiguous land, real property, or structures thereon belonging to the same owner, whether or not generally open to the public, after having been informed by a peace officer at the request of the owner, the owner's agent, or the person in lawful possession, and upon being informed by the peace officer that he or she is acting at the request of the owner, the owner's agent, or the person in lawful possession, that the property is not open to the particular person; or refusing or failing to leave the property upon being asked to leave the property in the manner provided in this subdivision.

This subdivision shall apply only to a person who has been convicted of a violent felony, as specified in subdivision (c) of Section 667.5, committed upon the particular private property. A single notification or request to the person as set forth above shall

1 be valid and enforceable under this subdivision unless and until
2 rescinded by the owner, the owner's agent, or the person in lawful
3 possession of the property.

4 (u) (1) Knowingly entering, by an unauthorized person, upon
5 any airport operations area, passenger vessel terminal, or public
6 transit facility if the area has been posted with notices restricting
7 access to authorized personnel only and the postings occur not
8 greater than every 150 feet along the exterior boundary, to the
9 extent, in the case of a passenger vessel terminal, as defined in
10 subparagraph (B) of paragraph (3), that the exterior boundary
11 extends shoreside. To the extent that the exterior boundary of a
12 passenger vessel terminal operations area extends waterside, this
13 prohibition shall apply if notices have been posted in a manner
14 consistent with the requirements for the shoreside exterior
15 boundary, or in any other manner approved by the captain of the
16 port.

17 (2) Any person convicted of a violation of paragraph (1) shall
18 be punished as follows:

19 (A) By a fine not exceeding one hundred dollars (\$100).

20 (B) By imprisonment in the county jail not exceeding six
21 months, or by a fine not exceeding one thousand dollars (\$1,000),
22 or both, if the person refuses to leave the airport or passenger vessel
23 terminal after being requested to leave by a peace officer or
24 authorized personnel.

25 (C) By imprisonment in the county jail not exceeding six
26 months, or by a fine not exceeding one thousand dollars (\$1,000),
27 or both, for a second or subsequent offense.

28 (3) As used in this subdivision the following definitions shall
29 control:

30 (A) "Airport operations area" means that part of the airport used
31 by aircraft for landing, taking off, surface maneuvering, loading
32 and unloading, refueling, parking, or maintenance, where aircraft
33 support vehicles and facilities exist, and which is not for public
34 use or public vehicular traffic.

35 (B) "Passenger vessel terminal" means only that portion of a
36 harbor or port facility, as described in Section 105.105(a)(2) of
37 Title 33 of the Code of Federal Regulations, with a secured area
38 that regularly serves scheduled commuter or passenger operations.
39 For the purposes of this section, "passenger vessel terminal" does

1 not include any area designated a public access area pursuant to
2 Section 105.106 of Title 33 of the Code of Federal Regulations.

3 (C) "Public transit facility" has the same meaning as specified
4 in Section 171.7.

5 (D) "Authorized personnel" means any person who has a valid
6 airport identification card issued by the airport operator or has a
7 valid airline identification card recognized by the airport operator,
8 or any person not in possession of an airport or airline identification
9 card who is being escorted for legitimate purposes by a person
10 with an airport or airline identification card. "Authorized
11 personnel" also means any person who has a valid port
12 identification card issued by the harbor operator, or who has a
13 valid company identification card issued by a commercial maritime
14 enterprise recognized by the harbor operator, or any other person
15 who is being escorted for legitimate purposes by a person with a
16 valid port or qualifying company identification card. "Authorized
17 personnel" also means any person who has a valid public transit
18 employee identification.

19 (E) "Airport" means any facility whose function is to support
20 commercial aviation.

21 (v) (1) Except as permitted by federal law, intentionally
22 avoiding submission to the screening and inspection of one's
23 person and accessible property in accordance with the procedures
24 being applied to control access when entering or reentering a sterile
25 area of an airport, passenger vessel terminal, as defined in Section
26 171.5, or public transit facility, as defined in subdivision (u), if
27 the sterile area is posted with a statement providing reasonable
28 notice that prosecution may result from a trespass described in this
29 subdivision, is a violation of this subdivision, punishable by a fine
30 of not more than five hundred dollars (\$500) for the first offense.
31 A second and subsequent violation is a misdemeanor, punishable
32 by imprisonment in a county jail for a period of not more than one
33 year, or by a fine not to exceed one thousand dollars (\$1,000), or
34 by both that fine and imprisonment.

35 (2) Notwithstanding paragraph (1), if a first violation of this
36 subdivision is responsible for the evacuation of an airport terminal,
37 passenger vessel terminal, or public transit facility and is
38 responsible in any part for delays or cancellations of scheduled
39 flights or departures, it is punishable by imprisonment of not more
40 than one year in a county jail.

1 (w) Refusing or failing to leave a battered women's shelter at
2 any time after being requested to leave by a managing authority
3 of the shelter.

4 (1) A person who is convicted of violating this subdivision shall
5 be punished by imprisonment in a county jail for not more than
6 one year.

7 (2) The court may order a defendant who is convicted of
8 violating this subdivision to make restitution to a battered woman
9 in an amount equal to the relocation expenses of the battered
10 woman and her children if those expenses are incurred as a result
11 of trespass by the defendant at a battered women's shelter.

12 (x) (1) Knowingly entering or remaining in a neonatal unit,
13 maternity ward, or birthing center located in a hospital or clinic
14 without lawful business to pursue therein, if the area has been
15 posted so as to give reasonable notice restricting access to those
16 with lawful business to pursue therein and the surrounding
17 circumstances would indicate to a reasonable person that he or she
18 has no lawful business to pursue therein. Reasonable notice is that
19 which would give actual notice to a reasonable person, and is
20 posted, at a minimum, at each entrance into the area.

21 (2) Any person convicted of a violation of paragraph (1) shall
22 be punished as follows:

23 (A) As an infraction, by a fine not exceeding one hundred dollars
24 (\$100).

25 (B) By imprisonment in a county jail not exceeding one year,
26 or by a fine not exceeding one thousand dollars (\$1,000), or both,
27 if the person refuses to leave the posted area after being requested
28 to leave by a peace officer or other authorized person.

29 (C) By imprisonment in a county jail not exceeding one year,
30 or by a fine not exceeding two thousand dollars (\$2,000), or both,
31 for a second or subsequent offense.

32 (D) If probation is granted or the execution or imposition of
33 sentencing is suspended for any person convicted under this
34 subdivision, it shall be a condition of probation that the person
35 participate in counseling, as designated by the court, unless the
36 court finds good cause not to impose this requirement. The court
37 shall require the person to pay for this counseling, if ordered, unless
38 good cause not to pay is shown.

39 (y) Except as permitted by federal law, intentionally avoiding
40 submission to the screening and inspection of one's person and

1 accessible property in accordance with the procedures being applied
2 to control access when entering or reentering a courthouse or a
3 city, county, city and county, or state building if entrances to the
4 courthouse or the city, county, city and county, or state building
5 have been posted with a statement providing reasonable notice
6 that prosecution may result from a trespass described in this
7 subdivision.

8 SEC. 3. Section 640 of the Penal Code is amended to read:

9 640. (a) (1) *Any of the acts described in paragraphs (1) to*
10 *(5), inclusive, of subdivision (b) is an infraction punishable by a*
11 *fine not to exceed two hundred fifty dollars (\$250) and by*
12 *community service for a total time not to exceed 48 hours over a*
13 *period not to exceed 30 days, during a time other than during the*
14 *violator's hours of school attendance or employment. Any of the*
15 *acts described in paragraphs (1) to (7) (3), inclusive, of subdivision*
16 *(b) (c), upon a first or second violation, is an infraction punishable*
17 *by a fine not to exceed two hundred fifty dollars (\$250) and by*
18 *community service for a total time not to exceed 48 hours over a*
19 *period not to exceed 30 days, during a time other than during his*
20 *or her the violator's hours of school attendance or employment.*
21 *A third or subsequent violation of any of the acts described in*
22 *paragraphs (1) to (7) (3), inclusive, of subdivision (b) (c) is a*
23 *misdemeanor punishable by a fine of not more than four hundred*
24 *dollars (\$400) or by imprisonment in the county jail for a period*
25 *of not more than 90 days, or by both that fine and imprisonment.*
26 *Any of the acts described in subdivision (e) (d) shall be punishable*
27 *by a fine of not more than four hundred dollars (\$400), by*
28 *imprisonment in the county jail for a period of not more than 90*
29 *days, or by both that fine and imprisonment.*

30 (2) This section shall apply only to acts committed on or in a
31 facility or vehicle of a public transportation system.

32 (b) (1) *Eating or drinking in or on a system facility or vehicle*
33 *in areas where those activities are prohibited by that system.*

34 (2) *Disturbing another person by loud or unreasonable noise.*

35 (3) *Smoking in or on a system facility or vehicle in areas where*
36 *those activities are prohibited by that system.*

37 (4) *Expectorating upon a system facility or vehicle.*

38 (5) *Skateboarding, roller skating, bicycle riding, roller blading,*
39 *or operating a motorized scooter or similar device as defined in*
40 *Section 407.5 of the Vehicle Code in a system facility, vehicle, or*

1 parking structure. This paragraph does not apply to an activity
2 that is necessary for utilization of the transit facility by a bicyclist,
3 including, but not limited to, an activity that is necessary for
4 parking a bicycle or transporting a bicycle aboard a transit vehicle,
5 if that activity is conducted with the permission of the transit
6 agency in a manner that does not interfere with the safety of the
7 bicyclist or other patrons of the transit facility.

8 (b)

9 (c) (1) Evasion of the payment of a fare of the system. For
10 purposes of this section, fare evasion includes entering an enclosed
11 area of a public transit facility beyond posted signs prohibiting
12 entrance without obtaining valid fare, in addition to entering a
13 transit vehicle without valid fare.

14 (2) Misuse of a transfer, pass, ticket, or token with the intent to
15 evade the payment of a fare.

16 ~~(3) Playing sound equipment on or in a system facility or~~
17 ~~vehicle.~~

18 ~~(4) Smoking in or on a system facility or vehicle in those areas~~
19 ~~where those activities are prohibited by that system.~~

20 ~~(5) Expecterating upon a system facility or vehicle.~~

21 ~~(6) Skateboarding, roller skating, bicycle riding, roller blading,~~
22 ~~or operating an electronic personal assistive mobility device~~
23 ~~(EPAMD) or similar device as defined in Section 313 of the~~
24 ~~Vehicle Code, or a motorized scooter or similar device as defined~~
25 ~~in Section 407.5 of the Vehicle Code in a system facility, vehicle,~~
26 ~~or parking structure. This paragraph does not apply to an activity~~
27 ~~that is necessary for utilization of the transit facility by a bicyclist,~~
28 ~~including, but not limited to, an activity that is necessary for~~
29 ~~parking a bicycle or transporting a bicycle aboard a transit vehicle,~~
30 ~~if that activity is conducted with the permission of the transit~~
31 ~~agency in a manner that does not interfere with the safety of the~~
32 ~~bicyclist or other patrons of the transit facility.~~

33 (7)

34 (3) (A) Unauthorized use of a discount ticket or failure to
35 present, upon request from a transit system representative,
36 acceptable proof of eligibility to use a discount ticket, in
37 accordance with Section 99155 of the Public Utilities Code and
38 posted system identification policies when entering or exiting a
39 transit station or vehicle. Acceptable proof of eligibility must be
40 clearly defined in the posting.

1 (B) In the event that an eligible discount ticket user is not in
2 possession of acceptable proof at the time of request, any citation
3 issued shall be held for a period of 72 hours to allow the user to
4 produce acceptable proof. If the proof is provided, the citation
5 shall be voided. If the proof is not produced within that time period,
6 the citation shall be processed.

7 ~~(8) Eating or drinking in or on a system facility or vehicle in~~
8 ~~those areas where those activities are prohibited by that system~~
9 ~~shall be an infraction punishable by a fine not to exceed two~~
10 ~~hundred fifty dollars (\$250) and by community service for a total~~
11 ~~time not to exceed 48 hours over a period not to exceed 30 days;~~
12 ~~during a time other than during his or her hours of school~~
13 ~~attendance or employment.~~

14 (e)

15 (d) (1) Willfully disturbing others on or in a system facility or
16 vehicle by engaging in boisterous or unruly behavior.

17 (2) Carrying an explosive or acid, acid, or flammable liquid;
18 or toxic or hazardous material in a public transit facility or vehicle.

19 (3) Urinating or defecating in a system facility or vehicle, except
20 in a lavatory. However, this paragraph shall not apply to a person
21 who cannot comply with this paragraph as a result of a disability,
22 age, or a medical condition.

23 (4) Willfully blocking the free movement of another person in
24 a system facility or vehicle. This paragraph shall not be interpreted
25 to affect any lawful activities permitted or first amendment rights
26 protected under the laws of this state or applicable federal law,
27 including, but not limited to, laws related to collective bargaining,
28 labor relations, or labor disputes.

29 (5) Willfully tampering with, removing, displacing, injuring,
30 or destroying any part of any facility or vehicle of a public
31 transportation system.

32 (d)

33 (e) Notwithstanding subdivision (a), the City and County of San
34 Francisco and the Los Angeles County Metropolitan Transportation
35 Authority may enact and enforce an ordinance providing that any
36 of the acts described in subdivision (b) or (c) on or in a facility or
37 vehicle described in subdivision (a) for which the City and County
38 of San Francisco or the Los Angeles County Metropolitan
39 Transportation Authority has jurisdiction shall be subject only to
40 an administrative penalty imposed and enforced in a civil

1 proceeding. The ordinance for imposing and enforcing the
2 administrative penalty shall be governed by Chapter 8
3 (commencing with Section 99580) of Part 11 of Division 10 of
4 the Public Utilities Code and shall not apply to minors.

5 (e)

6 (f) For purposes of this section, a "facility or vehicle of a public
7 transportation system" means any of the following:

8 (1) A facility or vehicle of a public transportation system as
9 defined by Section 99211 of the Public Utilities Code.

10 (2) A facility of, or vehicle operated by any entity subsidized
11 by, the Department of Transportation.

12 (3) A leased or rented facility or vehicle for which any of the
13 entities described in paragraph (1) or (2) incur costs of cleanup,
14 repair, or replacement as a result of any of those acts.

15 SEC. 4. No reimbursement is required by this act pursuant to
16 Section 6 of Article XIII B of the California Constitution because
17 the only costs that may be incurred by a local agency or school
18 district will be incurred because this act creates a new crime or
19 infraction, eliminates a crime or infraction, or changes the penalty
20 for a crime or infraction, within the meaning of Section 17556 of
21 the Government Code, or changes the definition of a crime within
22 the meaning of Section 6 of Article XIII B of the California
23 Constitution.

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