

File No. 211208 Committee Item No. 3
Board Item No. 31

COMMITTEE/BOARD OF SUPERVISORS
AGENDA PACKET CONTENTS LIST

Committee: Land Use and Transportation Committee Date December 6, 2021

Board of Supervisors Meeting Date _____

Cmte Board

- Motion
- Resolution
- Ordinance
- Legislative Digest
- Budget and Legislative Analyst Report
- Youth Commission Report
- Introduction Form
- Department/Agency Cover Letter and/or Report
- MOU
- Grant Information Form
- Grant Budget
- Subcontract Budget
- Contract/Agreement
- Form 126 – Ethics Commission
- Award Letter
- Application
- Public Correspondence

OTHER (Use back side if additional space is needed)

- Referral FYI 112421 _____
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Completed by: Erica Major Date December 2, 2021
Completed by: Erica Major Date _____

1 [Urging Bicycle Share and Powered Scooter Share to Enhance User Compliance and Protect
2 Pedestrians, Seniors and People with Disabilities]

3 **Resolution urging permittees of San Francisco’s Bicycle Share and Powered Scooter**
4 **Share Programs to implement measures to advance rider compliance with existing**
5 **terms and conditions of San Francisco’s Bicycle Share and Powered Scooter Share**
6 **Program requirements, and urging the SFMTA and its Board of Directors to establish**
7 **new permit terms and conditions for future permits that further serve the goal of**
8 **ensuring the public health and safety of pedestrians, seniors and people with**
9 **disabilities.**

10
11 WHEREAS, In March 2017, the Board of Supervisors unanimously adopted, and the
12 Mayor approved, an ordinance amending Division I of the Transportation Code to establish a
13 violation for bicycles that are part of a Stationless Bicycle Share Program to be parked, left
14 standing, or left unattended on any public right of way under the jurisdiction of SFMTA or
15 Public Works without a permit issued by the SFMTA; and

16 WHEREAS, In April 2018 the Board of Supervisors unanimously adopted, and the
17 Mayor approved, an ordinance expanding that permit requirement to Powered Scooters that
18 are a part of a Powered Scooter Share Program; and

19 WHEREAS, While the Board of Supervisors has jurisdiction to establish the permit
20 requirement in Division I of the Transportation Code, general permit requirements and criteria
21 for Stationless Bicycle Share Program Permits and Powered Scooter Share Program Permits
22 are established by the SFMTA Board of Directors and set forth in Division II of the
23 Transportation Code; and

24 WHEREAS, The General Permit Requirements for the Stationless Bicycle Share
25 Program and Powered Scooter Program, respectively, include requirements to address a wide

1 range of workforce, environmental, pedestrian safety, and other public health and safety
2 issues; and

3 WHEREAS, In January 2018, SFMTA issued its first permit to operate a stationless
4 bicycle share service to JUMP Bikes, a stationless electric-assist bikeshare service, and has
5 subsequently contracted with Lyft to continue operation of a stationless bicycle share service
6 in San Francisco; and

7 WHEREAS, In June 2021, SFMTA re-issued two 12-month permits to operate a
8 powered scooter share service to Lime and Spin, and deferred action on Scoot's renewal in
9 order to further investigate their compliance with the 2019 permit terms and conditions after
10 learning that Scoot had been operating with unauthorized and inadequately insured
11 contractors; and in August 2021, following that investigation and a re-evaluation of Scoot's
12 application, issued a renewed permit to Scoot; and

13 WHEREAS, SFMTA regularly updates permit terms and conditions to ensure the safety
14 and integrity of bicycle share and scooter share programs; and

15 WHEREAS, Regulation of scooter and bicycles share programs has, in the past,
16 resulted in technological innovation around shared public safety goals, including when SFMTA
17 established a lock-to requirement for scooters and bicycles in public rights of way, and
18 permittees created locking mechanisms that have become standard across the industry; and

19 WHEREAS, Despite SFMTA's best efforts to monitor for compliance with permit terms
20 and conditions, compliance remains a challenge, enforcement policies are inconsistent across
21 permittees, and data regarding the number and type of violations is incomplete; and

22 WHEREAS, Compliance and enforcement has been a particular challenge for parking
23 requirements and the prohibition on riding scooters and bikes on sidewalks, which violations
24 have proven particularly dangerous for pedestrians, people with disabilities, and riders

25

1 themselves, eliciting concern and calls for reform from pedestrian safety, senior and disability
2 advocates; and

3 WHEREAS, In October 2021, Director Nicole Bohn of the Mayor’s Office on Disability
4 was struck and injured by a rider while illegally riding a scooter permitted under San
5 Francisco’s Powered Scooter Share Program; and

6 WHEREAS, Powered Scooter Share Program permittees have variously expressed
7 that they are developing new technologies to prevent their customers from riding powered
8 scooters on the sidewalk, including geo-fencing, sidewalk recognition, and asphalt detection
9 hardware and software; now, therefore, be it

10 RESOLVED, That the Board of Supervisors of the City and County of San Francisco
11 hereby urges the SFTMA and its Board of Directors to implement measures to significantly
12 expand compliance with existing public health and safety conditions pertaining to safe and
13 accessible parking methods and prohibition on the riding of bicycles and scooters on
14 sidewalks; and, be it

15 FURTHER RESOLVED, That the Board of Supervisors of the City and County of San
16 Francisco urges SFMTA and its Board of Directors to establish new permit terms and
17 conditions for future permits to:

- 18 1) Prohibit permittees from including in agreements with riders any provision by which
19 the rider waives, releases, or in any way limits their legal rights, remedies, or forum
20 under the agreement; and
- 21 2) Standardize categories of improper rider behavior and corresponding penalties to
22 hold riders and permittees accountable for repeated improper, unsafe and/or illegal
23 parking or riding behavior; and, be it

24
25

1 FURTHER RESOLVED, That the Board of Supervisors urges permittees to promptly
2 install and otherwise implement sidewalk detection technology designed to prevent illegal
3 riding on sidewalks; and, be it

4 FURTHER RESOLVED, That the Board of Supervisors urges SFMTA to condition the
5 issuance of future permits permittees' installation and implementation of sidewalk detection
6 technology designed to prevent illegal riding on sidewalks.

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SFMTA

Shared Mobility Device Update

Land Use and Transportation Committee

December 6, 2021

Shared Mobility Device Services: Desired Outcomes

- ❖ Safe and equitable mobility options that serve public interest
- ❖ Diverse riders
- ❖ Support transit service by providing first mile/last mile option
- ❖ Mobility innovation that helps reduce:
 - Traffic congestion
 - Parking demand
 - Carbon emissions



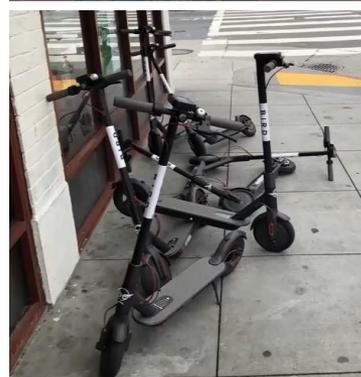
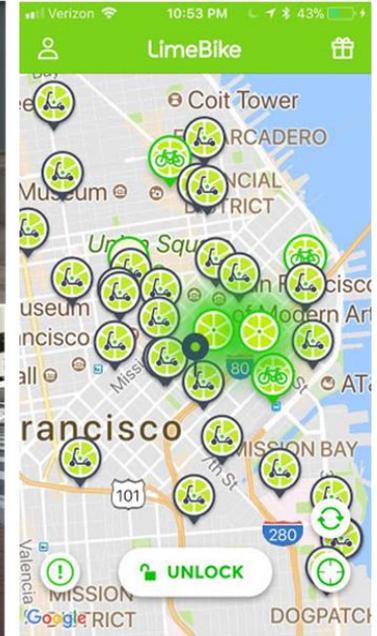
Shared Mobility Device Services: Challenges

- ❖ Illegal and unsafe riding behaviors
 - Sidewalk riding
 - Double riding
 - Riding the wrong way
- ❖ Improperly parked devices impacting accessible right of way
- ❖ Rider accountability
- ❖ Equitable service



Scooter Share Service in SF

- ❖ **March 2018** – Shared scooter companies deploy in SF
- ❖ **April 2018** – Board of Supervisors grants SFMTA power to permit scooter share
- ❖ **May 2018** – SFMTA establishes scooter share pilot
- ❖ **October 2018** – Powered Scooter Share Pilot Program begins with two permittees: Scoot and Skip
 - Complaints decrease
 - Improved parking behavior due to lock-to device and parking requirements
 - In-app safety education
- ❖ **October 2019** – Pilot concludes & Powered Scooter Share Program Permit begins
 - Lock-to requirement
 - Increased reporting requirements
 - Low-income plan
 - Adaptive pilot
- ❖ **January 2021** – SFMTA Board approves permit term extension until June 30, 2021
- ❖ **July 2021** – Current permit begins



FY2022 Scooter Permit Program



Lime 2,000 devices



Spin 2,000 devices



Scoot 1,500 devices

Program Snapshot: July 1 to present

Trips: 927,458

Improper Parking Citations: 4,359

311 complaints: 1,947

Moving Violations: 5*

*issued by SFPD

Key Requirements

Permit Terms and Conditions require:

- ❖ Safety and rider accountability
- ❖ Parking requirements
- ❖ Equity focus
 - ❖ Adaptive program
 - ❖ Low-income plans
 - ❖ Neighborhood distribution
 - ❖ Community engagement
- ❖ Reporting requirements
- ❖ Labor Harmony
- ❖ Summary suspension



Permanent Adaptive Program

Permit Terms and Conditions

- ❖ Adaptive scooters required in fleet: at least 5%
- ❖ Adaptive scooters must be available in app
- ❖ Permittees must track and report usage
- ❖ Complementary Adaptive program allows for innovation and testing



Adaptive Demonstration 11.8.21

- ❖ AccessSFUSD students and staff
- ❖ Many first-time scooter riders testing adaptive devices in Golden Gate Park
- ❖ Feedback: baskets, wheeled devices, floorboards, seat heights and speed



Permittee Commitments

1. User education

- ❖ App pop-ups, safety reminders, and safety quiz
- ❖ On-vehicle safety messaging
- ❖ Quarterly safety training class

2. Progressive Discipline Model

- ❖ Fines or account suspension in increasing intensity for improperly parked scooters or unsafe riding

3. Sidewalk Riding Detection Technology

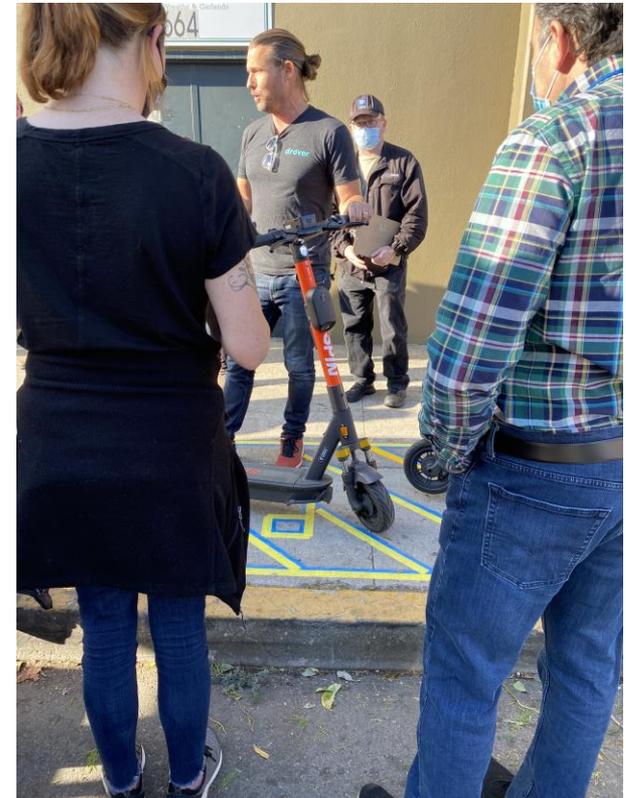
- ❖ Each Permittee has committed to implementing technology to eliminate sidewalk riding

Sidewalk Riding Detection Demo 12.1.21



Sidewalk Riding Detection Best Practices

- ❖ Audible "No sidewalk" message
- ❖ Slow down speed 4 mph
- ❖ Technology Demonstrated
 - GPS/Mapping
 - Camera
 - Vibration



Sidewalk Riding Detection Next Steps

- ❖ Work with permittees on implementation, including timeline
- ❖ Develop audit framework for enforcement
- ❖ Issue updated policy directive
- ❖ Fleet expansion and permit extension requirement



SFMTA Enforcement

Enforcement Team

- ❖ Eight enforcement staff
- ❖ On-street generally seven days a week
- ❖ Authorized to issue administrative penalties for improperly parked devices
- ❖ Citations issued via enforcement app that automatically requests device removal
- ❖ Device removal required within 2-hours
- ❖ Enforcement app is integrated with 311 and dashboards

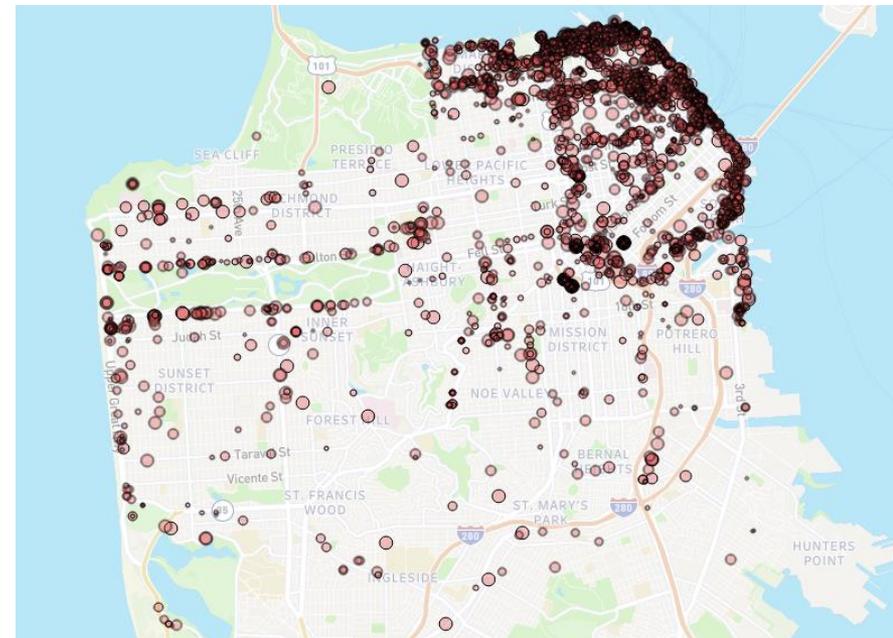
Compliance Monitoring

- ❖ Monitor daily trip activity
- ❖ Device Cap/Minimums
- ❖ Complaints database
- ❖ Monthly & quarterly reports

Salesforce Tools

- ❖ Using technology to improve tracking shared mobility parking citations
- ❖ Improve reporting efficiencies
- ❖ Recent implementation of 311 complaints integration with Salesforce

Scooter Parking Citations Issued (by Location)



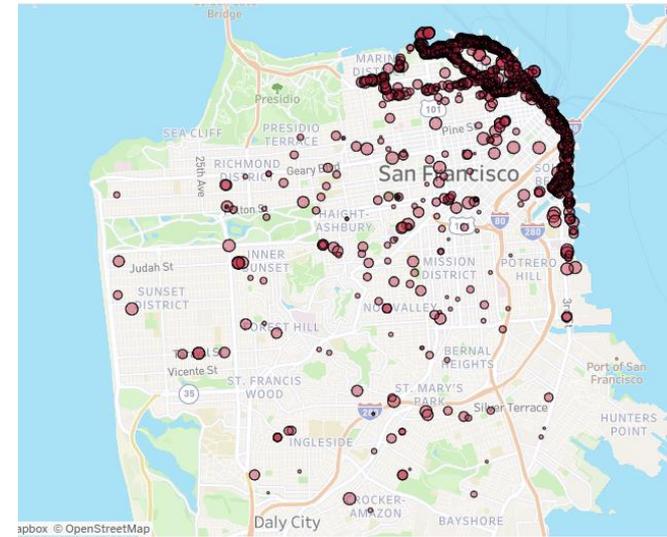
Transparency

- ❖ [Scooter Enforcement & Complaints Dashboards](#)
- ❖ [Scooter Service Statistics](#)

Shared Mobility

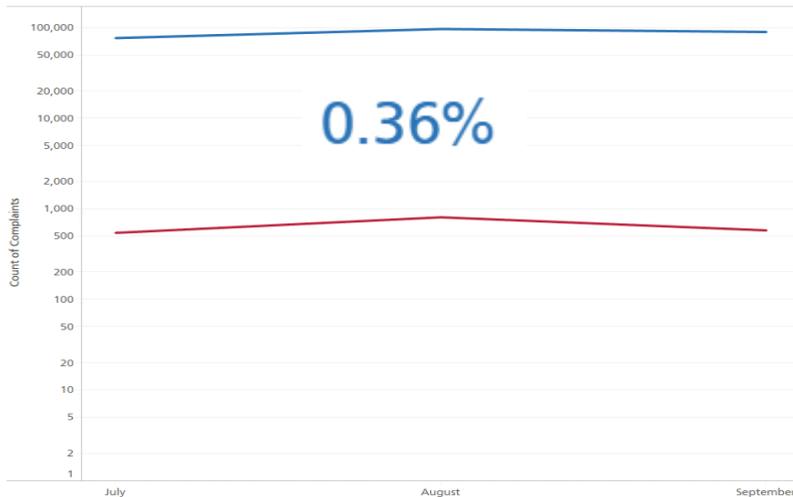


Scooter 311 Complaints Location

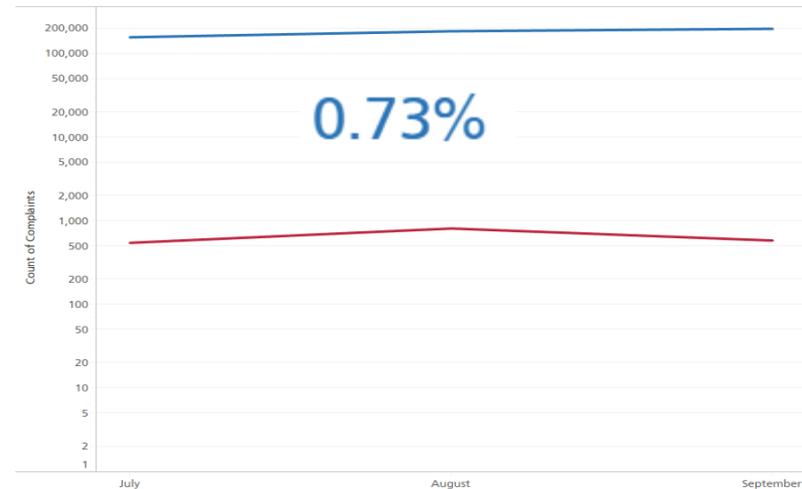


Scooter and Bike Complaints vs Trips

Scooter Complaints vs Trips

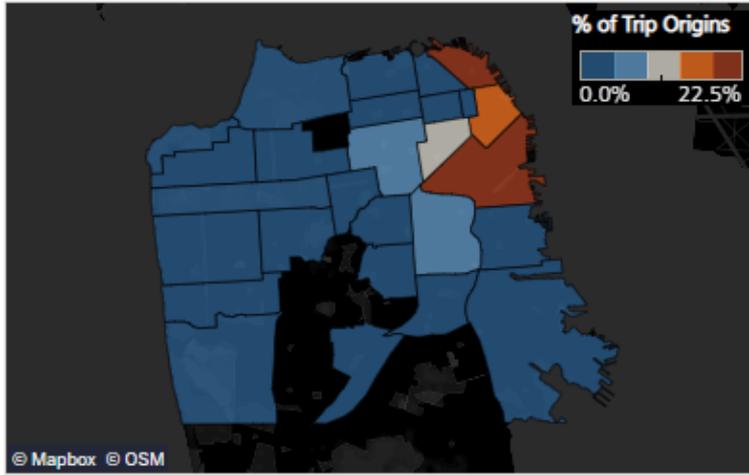


Scooter Complaints vs Devices

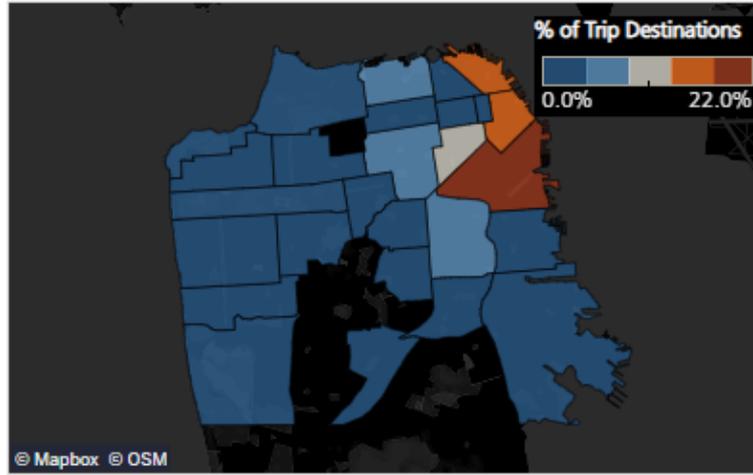


Scooter Trips

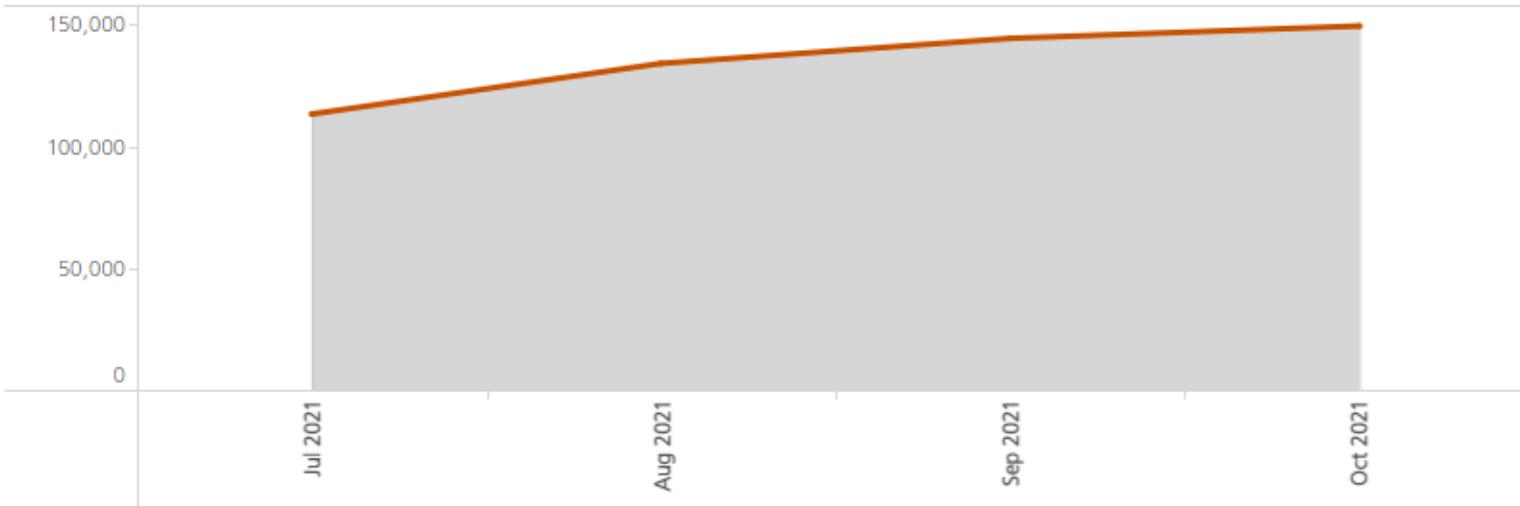
Share of Trip Origins by Neighborhood



Share of Trip Destinations by Neighborhood

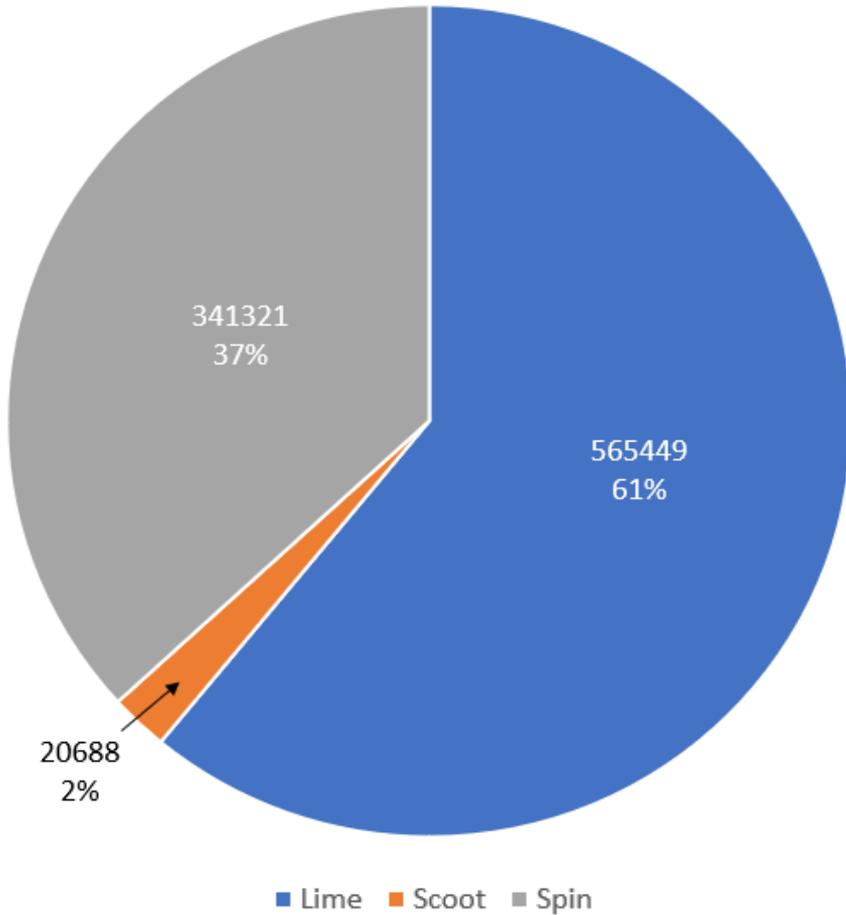


Total Trips Between All and All

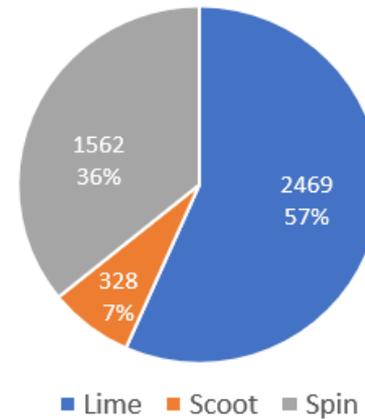


Scooter Parking Citations

Scooter Trips by Permittee



Scooter Parking Citations by Permittee



Citations vs Trips

	Citations	Trips	% of Citation vs Trips
Lime	2,469	565,449	0.44%
Scoot	328	20,688	1.59%
Spin	1,562	341,321	0.46%

Strengthening Enforcement Tools

- ❖ SFMTA continues to work with permittees on systemic solutions to solve improper riding and parking
- ❖ Community Engagement
- ❖ Administrative citations to permittees for failure of users to comply with applicable laws, including sidewalk riding
- ❖ Initiatives under consideration:
 - Increase fine amount for improper parking (\$100 to \$150)
 - Standardize in-app safety messages and device markings
 - Sidewalk safety message stencils in high complaint areas



Bikeshare - Successes

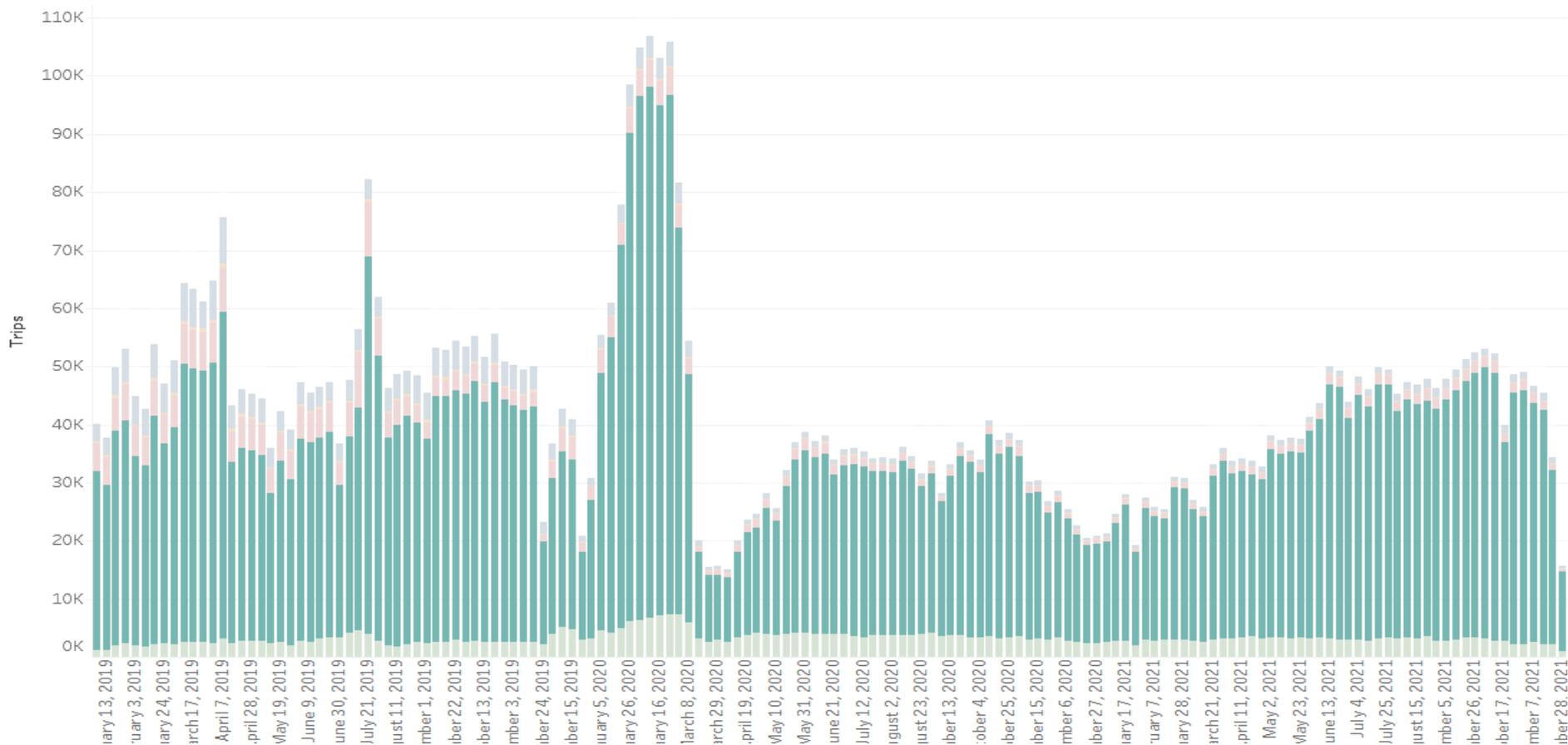
- ❖ 252 Existing Stations +35 in Q1 2022
- ❖ Rack Installations
- ❖ Service
 - station-based pedal bikes
 - hybrid e-bikes
- ❖ Public Private Partnership
 - minimal taxpayer funding



Bikeshare - Successes

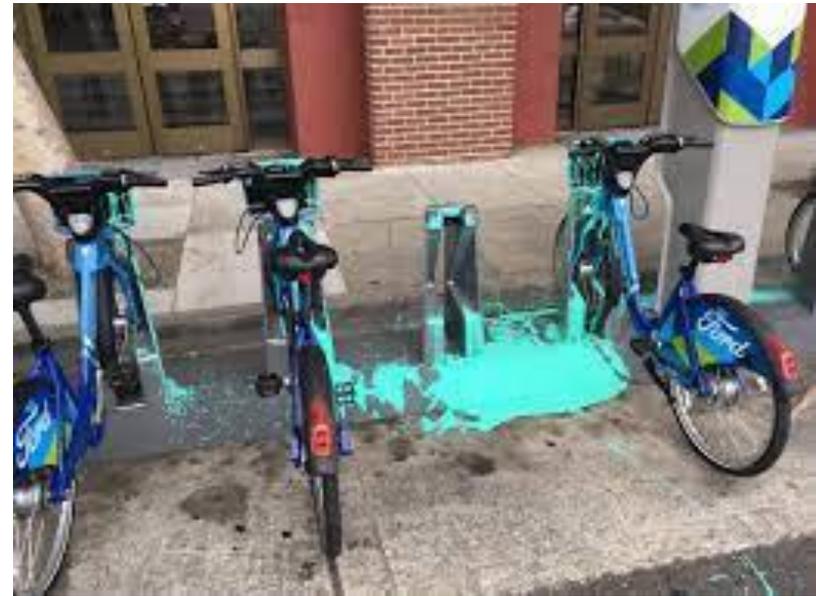
❖ Ridership

- peak -15k/day *no ebike fees
- Oct 21- 9k/day



Bikeshare - Challenges

- ❖ Theft/Vandalism
- ❖ Needed Bike Rack Installations
- ❖ Station Expansion
 - GGP
 - Sunset
- ❖ Service Modifications



Thank You!



Questions?

scoot



SPIN



**CHAMBER
OF PROGRESS**

Dec 3, 2021

Supervisor Peskin
Chair, Land Use and Transportation Committee
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, CA 94102-4689

Re: Resolution “Urging Bicycle Share and Powered Scooter Share to Enhance User Compliance with Terms and Conditions Designed to Protect Pedestrians, Seniors and People with Disabilities,” Agenda Item 3, No. 211208, December 6, 2021 Meeting - Condition Regulating User Agreements.

Dear Supervisors Melgar, Preston, and Chair Peskin:

We are writing to explain that the first condition (“Condition 1”) proposed in the Committee’s resolution (“[p]rohibit[ing] permittees from including in agreements with riders any provision by which the rider waives, releases, or in any way limits their legal rights, remedies, or forum under the agreement”) could effectively render bike and scooter share companies unable to operate in San Francisco, and would fail to achieve the Committee’s goal of better protecting public safety. We respectfully request that you strike Condition 1 from the resolution.

Implementation of this condition would deny shared mobility operators the same legal remedies afforded to *all* other California businesses. If implemented, the bike and scooter industry’s general liability insurer will be unable to insure operators in San Francisco, meaning that operators will not be able to obtain the insurance necessary to protect riders and meet City requirements. The sole insurer of micromobility companies, Apollo, recently stated that it would be unable to provide insurance to any shared bike or scooter operator were such a rule to go into effect (see **Attachment A**, referencing a bill with similar language to Condition 1). Micromobility companies already negotiate high-rate insurance policies to ensure sufficient insurance is in place to respond to accidents and personal injury arising from their negligence.

Waiver and release provisions are standard contractual clauses found in nearly every user agreement in California and are governed by statute and case law.¹ California law already protects consumers by circumscribing the scope of such waivers.² No other consumer industry is subject to such a limiting provision; California upholds waivers of liability for local bike rental companies, rental of motor vehicles, skydiving, use of golf carts, skiing, and motorcycle racing. Condition 1 is an unfair and unprecedented legal standard that would substantially increase defense costs and potential liability to a young industry that provides the public with an all-electric, sustainable mode of personal transportation. In case law, no court to date has adopted the position that such provisions in micromobility user agreements are categorically void.

Moreover, safety data in no way supports treating shared micromobility disparately from all other industries and applying special limitations on their freedom of contract. To the contrary, our data shows medical incidents on shared scooters occur approximately once in 50,000 rides, which is comparable to standard bicycles. In fact, reducing the availability of micromobility would undermine public safety: as the OECD has found, cities that promote micromobility actually increase overall safety by replacing car trips, providing socially-distant transportation, and reducing harmful air emissions.³

Finally, proposed Condition 1 does not address the issue of *pedestrian* safety driving these additional provisions because it relates to agreements with riders, not the public. If an accident involves a pedestrian due to an alleged scooter malfunction, operator insurance will offer coverage. If the accident involves a pedestrian and is caused by the rider, 1) the rider is responsible and can be pursued and 2) the operator agreement does not and cannot apply to the pedestrian because the pedestrian is not a party to the rider-operator agreement. In this regard, Condition 1 does nothing to improve pedestrian safety since it only involves the relationship between the rider and the operator. Operators are working at lightning speed to innovate and develop new methods to enhance user and public safety, such as sidewalk detection technology (which we demonstrated to SFMTA staff on Dec. 1, 2021), and we welcome ongoing dialog and partnership with the City to continue improving safety outcomes for all road users, particularly pedestrians and those with disabilities.

For the reasons above, a nearly identical provision was rejected and struck from a 2020 bill (AB 1286) by the California Assembly. Because Condition 1 would immediately make shared micromobility operators in San Francisco uninsured, treat the industry differently from all other industries without justification for doing so, and fail to meaningfully enhance public safety, we ask that you remove this condition from consideration.

Sincerely,

Scoot
Spin
Lime
Chamber of Progress

¹ See, e.g., California Civil Code § 1668; *Buchan v. United States Cycling Federation, Inc.*, 227 Cal.App.3d 134 (1991).

² See, e.g., California Civil Code 1668.

³ See <https://www.itf-oecd.org/safe-micromobility>

Attachment A

APOLLO

SYNDICATE MANAGEMENT LIMITED

**Apollo Syndicate Management
One Bishopsgate
London
EC2N 3AQ**

21st August 2020

To Whom It May Concern,

Apollo insures the micromobility operations of the largest micromobility companies in California, including Spin.

At the current time, the passing of AB 1286 would make it very hard, if not impossible, to continue to provide micromobility insurance in California. Removal of such provisions clearly has a significant impact on how we view the risk and liability exposure, particularly as we are not aware of a similar legal standard applicable to comparable industries.

If we were able to gain sufficient comfort to provide the coverage in the longer term, then the only way that this would be possible would be at many multiples of the current rates.

Apollo Syndicate Management Limited for and on behalf of Syndicate 1969 at Lloyd's

From: [Mchugh, Eileen \(BOS\)](#)
To: [Major, Erica \(BOS\)](#)
Subject: FW: SUPPORTING Land Use and Transportation Committee Agenda Item #3 [Urging Bicycle Share and Powered Scooter Share to Enhance User Compliance with Terms and Conditions Designed to Protect Pedestrians, Seniors and People with Disabilities] File #211208
Date: Monday, December 6, 2021 8:38:38 AM

For the file

Eileen

From: aeboken <aeboken@gmail.com>
Sent: Sunday, December 5, 2021 9:40 PM
To: BOS-Supervisors <bos-supervisors@sfgov.org>; BOS-Legislative Aides <bos-legislative_aides@sfgov.org>
Subject: SUPPORTING Land Use and Transportation Committee Agenda Item #3 [Urging Bicycle Share and Powered Scooter Share to Enhance User Compliance with Terms and Conditions Designed to Protect Pedestrians, Seniors and People with Disabilities] File #211208

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

TO: Board of Supervisors members

I am strongly supporting legislation that would make bike share and power scooter share safer for everyone.

Eileen Boken
Coalition for San Francisco Neighborhoods*

* For identification purposes only.

Sent from my Verizon, Samsung Galaxy smartphone

President, District 10
BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689
Tel. No. 554-6516
Fax No. 554-7674
TDD/TTY No. 544-6546

Shamann Walton

PRESIDENTIAL ACTION

Date: 12/1/2021

To: Angela Calvillo, Clerk of the Board of Supervisors

Madam Clerk,
Pursuant to Board Rules, I am hereby:

Waiving 30-Day Rule (Board Rule No. 3.23)

File No. _____

(Primary Sponsor)

Title. _____

Transferring (Board Rule No 3.3)

File No. _____

211208

Peskin

(Primary Sponsor)

Title. Urging Bicycle Share and Powered Scooter Share to Enhance User
Compliance with Terms and Conditions Designed to Protect Pedestrians,
Seniors and People with Disabilities

From: Public Safety and Neighborhood Services

Committee

To: Land Use and Transportation

Committee

Assigning Temporary Committee Appointment (Board Rule No. 3.1)

Supervisor: _____

Replacing Supervisor: _____

For: _____

(Date)

(Committee)

Meeting

Start Time: _____ End Time: _____

Temporary Assignment: Partial Full Meeting



Shamann Walton, President
Board of Supervisors

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689
Tel. No. (415) 554-5184
Fax No. (415) 554-5163
TDD/TTY No. (415) 554-5227

MEMORANDUM

TO: Jeffrey Tumlin, Executive Director, Municipal Transportation Agency
Carl Short, Interim Director, Public Works

FROM: Alisa Somera, Clerk, Public Safety and Neighborhood Services Committee
Board of Supervisors

DATE: November 24, 2021

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Public Safety and Neighborhood Services Committee has received the following proposed legislation, introduced by Supervisor Peskin on November 16, 2021:

File No. 211208 Urging Bicycle Share and Powered Scooter Share to Enhance User Compliance with Terms and Conditions Designed to Protect Pedestrians, Seniors and People with Disabilities

Resolution urging permittees of San Francisco's Bicycle Share and Powered Scooter Share Programs to implement measures to advance rider compliance with existing terms and conditions of San Francisco's Bicycle Share and Powered Scooter Share Program requirements, and urging the San Francisco Municipal Transportation Agency and its Board of Directors to establish new permit terms and conditions that further serve the goal of ensuring the public health and safety of pedestrians, seniors and people with disabilities.

You are being provided this informational referral since the legislation may affect your department.

If you have any comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or alisa.somera@sfgov.org.

c: Kate Breen, Municipal Transportation Agency
Janet Martinsen, Municipal Transportation Agency
Joel Ramos, Municipal Transportation Agency
David Steinberg, Public Works
Bryan Dahl, Public Works