

BOARD of SUPERVISORS



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## MEMORANDUM

TO: Regina Dick-Endrizzi, Director  
**Small Business Commission, City Hall, Room 448**

FROM: Erica Major, Assistant Committee Clerk, Government Audit and Oversight  
Committee, Board of Supervisors

DATE: February 11, 2015

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS  
Government Audit and Oversight Committee

The Board of Supervisors' Government Audit and Oversight Committee has received the following legislation, which is being referred to the Small Business Commission for comment and recommendation. The Commission may provide any response it deems appropriate within 12 days from the date of this referral.

**File No. 150119**

**Ordinance amending the Transportation Code to prohibit drivers of tour buses not regulated as passenger stage corporations or charter party carriers from narrating while driving; and affirming the Planning Department's determination under the California Environmental Quality Act.**

Please return this cover sheet with the Commission's response to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

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**RESPONSE FROM SMALL BUSINESS COMMISSION - Date:** \_\_\_\_\_

\_\_\_\_\_ **No Comment**

\_\_\_\_\_ **Recommendation Attached**

\_\_\_\_\_  
**Chairperson, Small Business Commission**

1 [Transportation Code - Narration by Tour Bus Drivers]

2  
3 **Ordinance amending the Transportation Code to prohibit drivers of tour buses not**  
4 **regulated as passenger stage corporations or charter party carriers from narrating**  
5 **while driving; and affirming the Planning Department's determination under the**  
6 **California Environmental Quality Act.**

7 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.  
8 **Additions to Codes** are in *single-underline italics Times New Roman font*.  
9 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.  
10 **Board amendment additions** are in double-underlined Arial font.  
11 **Board amendment deletions** are in ~~strikethrough Arial font~~.  
12 **Asterisks (\* \* \* \*)** indicate the omission of unchanged Code  
13 subsections or parts of tables.

14 Be it ordained by the People of the City and County of San Francisco:

15 Section 1. The Planning Department has determined that the actions contemplated in  
16 this ordinance comply with the California Environmental Quality Act (California Public  
17 Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the  
18 Board of Supervisors in File No. 150119 and is incorporated herein by reference. The Board  
19 affirms this determination.

20 Section 2. Findings.

21 The Board of Supervisors finds:

22  
23 (a) The City of San Francisco continues to see fatalities caused by collisions between  
24 pedestrians and motorists with 2014 ending with 18 pedestrian fatalities and 3 cyclist fatalities.  
25 The Board of Supervisors has convened multiple hearings on pedestrian and cyclist safety

1 which reveal an urgent need for action on a combined strategy of engineering, education, and  
2 enforcement to eliminate traffic fatalities.

3 (b) The City of San Francisco adopted a Pedestrian Strategy in 2013 to reduce serious  
4 or fatal pedestrian injuries by 25 percent by 2016 and by 50 percent by 2021. The Board of  
5 Supervisors has adopted a VISION ZERO Three Point Plan on file with the Clerk of the Board  
6 of Supervisors in File No. 140047, to end all Pedestrian and Bicycle fatalities by 2024.

7 (c) Distracted driving by motorists poses a significant risk of injury or death to  
8 motorists, pedestrians, and bicyclists. According to the California Traffic Safety Survey in  
9 2013, 36% of Californians surveyed thought that talking while driving posed the biggest safety  
10 problems on California roadways, and nearly 70% of California drivers surveyed said they had  
11 been hit or nearly hit by a driver who was talking or texting.

12 (d) A tour bus driver who is narrating a tour while driving is likely to be speaking to the  
13 bus's passengers, en masse, during the vast majority of time during the tour. Further, the job  
14 of driving a tour bus is in important respects more complex than driving an automobile. Thus,  
15 the safety problems created by talking while driving are at their zenith when a tour bus driver,  
16 in addition to attending to his or her driving responsibilities, is also providing narration to  
17 passengers.

18 (e) San Francisco streets are extremely congested, given population increases in  
19 recent years and the reduction in traffic lanes and routes created by construction projects and  
20 road repairs. The narrowness of many traffic lanes and the driving challenges presented by  
21 the City's topography exacerbate the congestion problem. The congestion on San Francisco  
22 streets heightens the safety risks associated with a tour bus driver narrating a tour while  
23 driving.  
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1 (f) Accordingly, the Board of Supervisors has concluded that prohibiting narration by  
2 tour bus drivers in the City will reduce distracted driving and advance traffic safety by reducing  
3 the likelihood of collisions and injuries caused by distracted driving.  
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5 Section 3. The Transportation Code is hereby amended by adding Section 7.2.89, to  
6 read as follows (Section 7.2 being reprinted below solely to provide context):

7 **SEC. 7.2. INFRACTIONS.**

8 In addition to public offenses created by the Vehicle Code, the actions listed in this  
9 Section 7.2 are prohibited, and each and every violation of a prohibition listed below shall be  
10 an infraction, except as otherwise provided in: (a) this Code; or (b) the Vehicle Code; or (c) as  
11 necessary to comply with the direction of a Police Officer or Parking Control Officer; or (d) with  
12 respect to a Municipal Parking Facility, upon the direction of an authorized parking attendant;  
13 or (e) with respect to any other Public Property, except with the permission of, and subject to  
14 such conditions and regulations as are imposed by the agency that owns the property that are  
15 available for public inspection at the agency's offices.

16 **SEC. 7.2.89. TOUR NARRATION BY BUS DRIVERS.**

17 For the driver of any City Tour Bus to engage in Tour Narration while such vehicle is in motion  
18 on any public street. For purposes of this Section 7.2.89, "City Tour Bus" shall mean a bus carrying  
19 passengers for compensation that is not required to be authorized by the California Public Utilities  
20 Commission to operate as either a charter party carrier or a passenger stage corporation under the  
21 California Public Utilities Code, and "Tour Narration" shall mean providing regular or ongoing oral  
22 information to passengers other than communications concerning payment of fares, announcement of  
23 stops, vehicle operation, safety or emergency procedures, occasional brief responses to questions  
24 initiated by passengers, or any communication to passengers that is required by law. "Tour  
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1 Narration” shall also not include any communication to passengers made by a person other than the  
2 operator, or any recorded communication delivered to passengers.

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4 Section 4. Effective Date. This ordinance shall become effective 30 days after  
5 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
6 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
7 of Supervisors overrides the Mayor’s veto of the ordinance.

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9 Section 5. No conflict with State or Federal Law. Nothing in this ordinance shall be  
10 interpreted or applied so as to create any requirement, power or duty in conflict with any  
11 federal or state law.


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13 Section 6. Undertaking for the General Welfare. In enacting and implementing this  
14 ordinance, the City is assuming an undertaking only to promote the general welfare. It is not  
15 assuming, nor is it imposing on its officer and employees, an obligation for breach of which it  
16 is liable in money damages to any person who claims that such breach proximately caused  
17 injury.

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19 Section 7. Severability. If any subsection, sentence, clause, phrase, or word of this  
20 ordinance, or any application thereof to any person or circumstance, is held to be invalid or  
21 unconstitutional by a decision of a court of competent jurisdiction, such decision shall not  
22 affect the validity of the remaining portions or applications of the ordinance. The Board of  
23 Supervisors hereby declares that it would have passed this ordinance and each and every  
24 section, subsection, sentence, clause, phrase, and word not declared invalid or  
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1 unconstitutional without regard to whether any other portion of this ordinance or application  
2 thereof would be subsequently declared invalid or unconstitutional.

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4 APPROVED AS TO FORM:  
5 DENNIS J. HERRERA, City Attorney

6 By:   
7 DAVID A. GREENBURG  
8 Deputy City Attorney

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