

1 [Criminal Tax Penalties]

2 AMENDING ARTICLE 6 OF PART III OF THE SAN FRANCISCO MUNICIPAL CODE
3 (BUSINESS AND TAX REGULATIONS CODE), BY REPEALING SECTIONS 6.19-1, 6.19-2,
4 AND 6.19-3, RELATING TO CRIMINAL PENALTIES FOR CERTAIN VIOLATIONS; BY RE-
5 NUMBERING SECTIONS 6.19-4, 6.19-5, AND 6.19-6 AS NEW SECTIONS 6.19-1, 6.19-2,
6 AND 6.19-3, RESPECTIVELY; AND BARRING ANY FUTURE PROSECUTIONS.

7
8 Note: Additions are underlined; deletions are in ((double parentheses)).

9
10 Be it ordained by the People of the City and County of San Francisco:

11
12 Section 1. Article 6 of the Business and Tax Regulations Code is hereby amended by
13 repealing Section 6.19-1.

14 **((SEC. 6.19-1. VIOLATIONS A MISDEMEANOR.**

15 Any person wilfully failing to pay or remit a tax after notification of delinquency, shall be
16 guilty of a misdemeanor, and shall be punishable therefor by a fine of not more than \$1,000 or
17 by imprisonment in the County Jail for a period of not more than six months or by both such
18 fine and imprisonment.

19 Any person who wilfully fails to respond to a request for information, a registration
20 notice, a deficiency notice or a jeopardy notice, or who renders a false or fraudulent return, or
21 wilfully fails to file a correct registration statement or timely update a previously filed
22 registration statement upon a material change is guilty of a misdemeanor, and is punishable
23 as aforesaid.

24
25 Supervisors Kaufman, Newsom

TREASURER/TAX COLLECTOR
BOARD OF SUPERVISORS

1 Any person required to make, render, sign or verify any report who makes any false or
2 fraudulent report, with intent to defeat or evade the determination of an amount due required
3 by this ordinance to be made, is guilty of a misdemeanor and is punishable as aforesaid.

4 Any person who wilfully engages in any business after the registration certificate issued
5 therefor has been suspended or revoked, and before such suspended certificate has been
6 reinstated or a new certificate issued, is guilty of a misdemeanor and is punishable as
7 aforesaid.))

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9 Section 2. Article 6 of the Business and Tax Regulations Code is hereby amended by
10 repealing Section 6.19-2.

11 **((SEC. 6.19-2. CITATIONS.**

12 (a) Pursuant to California Penal Code, Title 3, Section 836.5, and Title 3, Part 2,
13 Chapter 5C, the classes of officers and employees of the City and County of San Francisco
14 listed below are empowered to enforce Section 6.19-1 of Part III of the Municipal Code
15 against violations as a misdemeanor or infraction by exercising arrest and citation authority:
16

17	Classification No.	Class Title
18	4334	Investigator
19	4335	Senior Investigator
20	4337	Principal Investigator
21	4340	Chief Investigator

22
23 (b) The Tax Collector, in coordination with the Chief of Police, shall establish and
24 cause to be administered a special enforcement training program designed to instruct each
25 officer or employee who will exercise arrest and citation authority. Such training shall include

1 guidance and instruction regarding the evidentiary prerequisites to proper prosecutions for
2 violations thereof; the appropriate procedures for making arrests or otherwise prudently
3 exercising such arrest and citation authority; and the legal and practical ramifications and
4 limitations relevant to exercising enforcement authority.))

5
6 Section 3. Article 6 of the Business and Tax Regulations Code is hereby amended by
7 repealing Section 6.19-3.

8 **((SEC. 6.19-3. CITATION PROCEDURES.**

9 (a) Violations. Whenever any person is arrested for a violation of Section 6.19-1 of
10 Part III of the Municipal Code and such person is not immediately taken before a magistrate
11 as procedure therefor is prescribed in the Penal Code of the State of California, the arresting
12 officer shall prepare in duplicate a written notice to appear in court.

13 (b) Contents of Citation. Such notice shall contain the name and address of the person
14 so arrested, the offense charged, and the place and time where and when such person shall
15 appear in court.

16 (c) Time for Appearance. The time specified in the notice to appear shall be not less
17 than five days after such arrest.

18 (d) Appearance Before Judge of Municipal Court. The place specified in the notice to
19 appear shall be before the Municipal Court of the City and County of San Francisco.

20 (e) Signing of Promise to Appear. The arresting officer shall deliver one copy of the
21 notice to appear to the arrested person, and, such person, in order to secure release after
22 such arrest, must give his or her written promise so to appear in court by signing the duplicate
23 notice, which shall be retained by the officer. Thereupon the arresting officer shall immediately
24 release the person arrested from custody.

1 (f) Fixing of Bail by Judge. As soon as practicable thereafter the arresting officer shall
2 file the duplicate notice with the judge specified therein. Thereupon, the judge shall fix the
3 amount of bail which in his or her judgment, in accordance with the provisions of Section 1275
4 of the Penal Code of the State of California, will be reasonable and sufficient for the
5 appearance of the defendant, and the judge shall endorse upon the notice a statement signed
6 by him or her in the form set forth in Section 815a of said Code; provided, however, that
7 where judges of the Municipal Court have adopted a schedule of bail, the bail shall be in the
8 amount as set forth in the said bail schedule which is then in effect.

9 (g) Deposit and Forfeiture of Bail; Termination of Proceedings; Payment of Forfeited
10 Bail into Treasury. The defendant may, prior to the date upon which he or she promised to
11 appear in court, deposit with the judge the amount of bail set as provided above. Thereafter,
12 at the time the case is called for arraignment, if the defendant shall not appear, either in
13 person or by counsel, the judge may declare the bail forfeited, and may in his or her discretion
14 order that no further proceedings shall be had in such case. Upon the making of such order
15 that no further proceedings be had, all sums deposited as bail shall be paid into the treasury
16 of the City and County of San Francisco.

17 (h) Warrants of Arrest, Nonissuance. No warrant shall issue on such charge for the
18 arrest of a person who has given such written promise to appear in court, unless and until he
19 or she has violated such promise or has failed to deposit bail, to appear for arraignment, trial
20 or judgment, or to comply with the terms and provisions of the judgment, as required by law.

21 (i) Penalty for Failure to Appear in Court. Any person who wilfully violates his or her
22 written promise to appear in court is guilty of a misdemeanor, regardless of the disposition of
23 the original charge upon which he was arrested, and upon conviction of such misdemeanor,
24 shall be punished by fine not exceeding \$25 or by imprisonment in the County Jail for a period
25 not exceeding five days, or both such fine and imprisonment.

1 (j) Warrants of Arrest, Issuance for Failure to Appear. Whenever a person signs a
2 written promise to appear in court as provided in this Section, he or she must make such
3 appearance unless he or she has posted bail as provided herein. If he or she fails to so
4 appear, the judge shall, within 20 days after the date set for such appearance, issue and have
5 delivered for execution a warrant for arrest of that person.))
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7 Section 4. Article 6 of the Business and Tax Regulations Code is hereby amended by
8 renumbering Section 6.19-4 as new Section 6.19-1, to read as follows:

9 **SEC. 6.19-1 ((6.19-4)). CIVIL ACTIONS.**

10 In addition to the actions provided for in Section 6.10-3, the attorney for the Tax
11 Collector may bring a civil action to enjoin any violation of Part III of the Municipal Code.
12

13 Section 5. Article 6 of the Business and Tax Regulations Code is hereby amended by
14 renumbering Section 6.19-5 as new Section 6.19-2, to read as follows:

15 **SEC. 6.19-2 ((6.19-5)). REMEDIES CUMULATIVE.**

16 The remedies, penalties and procedures provided under this Article are cumulative and
17 are not intended to be exclusive of any other available remedies, penalties and procedures.
18

19 Section 6. Article 6 of the Business and Tax Regulations Code is hereby amended by
20 renumbering Section 6.19-6 as new Section 6.19-3, to read as follows:

21 **SEC. 6.19-3 ((6.19-6)). LIMITATIONS.**

22 Any action challenging the validity of a tax imposed under Part III of the Municipal
23 Code, as opposed to the application of that tax to a particular person, shall be commenced
24 within 90 days after the delinquency date for payment of the tax.
25

1 Section 7. No officer, employee, or agent of the City and County shall take any steps
2 to institute or maintain any criminal action pursuant to former Sections 6.19-1, 6.19-2, and
3 6.19-3, regardless of when the violations allegedly occurred.
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6 APPROVED AS TO FORM:

7 LOUISE H. RENNE, City Attorney
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11 By:



12 _____
13 JEFF MARGOLIS
14 Deputy City Attorney
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TREASURER/TAX COLLECTOR
BOARD OF SUPERVISORS



City and County of San Francisco

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Tails Ordinance

File Number: 001627

Date Passed:

Ordinance amending Article 6 of Part III of the San Francisco Municipal Code (Business and Tax Regulations Code) by repealing Sections 6.19-1, 6.19-2, and 6.19-3, relating to criminal penalties for certain violations; by renumbering Sections 6.19-4, 6.19-5, and 6.19-6 as new Sections 6.19-1, 6.19-2, and 6.19-3, respectively; and barring any future prosecutions.

December 4, 2000 Board of Supervisors — PASSED, ON FIRST READING

Ayes: 11 - Ammiano, Becerril, Bierman, Brown, Katz, Kaufman, Leno, Newsom, Teng, Yaki, Yee

December 11, 2000 Board of Supervisors — FINALLY PASSED

Ayes: 10 - Ammiano, Bierman, Brown, Katz, Kaufman, Leno, Newsom, Teng, Yaki, Yee

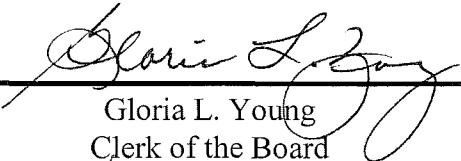
Absent: 1 - Becerril

File No. 001627

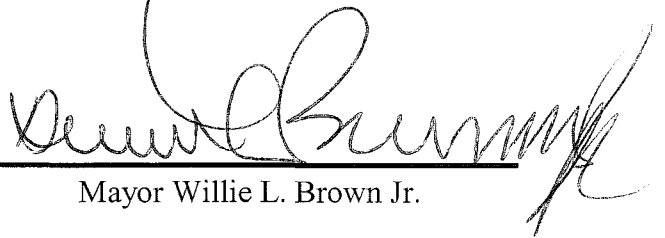
I hereby certify that the foregoing Ordinance was FINALLY PASSED on December 11, 2000 by the Board of Supervisors of the City and County of San Francisco.

DEC 22 2000

Date Approved



Gloria L. Young
Clerk of the Board



Mayor Willie L. Brown Jr.