

File No. 210180

Committee Item No. 4

Board Item No. 1

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Budget & Finance Committee

Date March 10, 2021

Board of Supervisors Meeting

Date March 23, 2021

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)

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Completed by: Linda Wong

Date March 4, 2021

Completed by: Linda Wong

Date March 12, 2021

1 [Business and Tax Regulations Code - Extending Temporary Suspension of Business
2 Registration and Fee for Transportation Network Company Drivers and Taxi Drivers]

3 **Ordinance amending the Business and Tax Regulations Code to extend through Fiscal**
4 **Year 2021-2022 the temporary suspension of the application of the business**
5 **registration and fee requirements for transportation network company drivers and taxi**
6 **drivers.**

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8 **Additions to Codes** are in *single-underline italics Times New Roman font*.
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10 **Board amendment additions** are in double-underlined Arial font.
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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. Background, Purpose, and Findings.

16 (a) The California Constitution gives charter cities, including San Francisco, the power
17 to “make and enforce all ordinances and regulations in respect to municipal affairs, subject
18 only to restrictions and limitations” contained in their own charters. (Cal. Const., art. XI, § 5,
19 subd. (a).) This constitutional power of charter cities to regulate their own municipal affairs
20 without interference from the Legislature has long been held to encompass the power to
21 license and tax local businesses for revenue purposes.

22 (b) In 2017, the Legislature enacted Senate Bill 182 (“SB 182”), the effect of which is
23 to largely immunize automobile drivers who drive for online ride-hailing entities known as
24 transportation network companies (“TNCs”) from local business license requirements. (Cal.
25 Bus. & Prof. Code §§ 16550-16550.2.) Under SB 182, a city – purportedly including a charter
city – must allow such a driver to conduct business freely within its borders without obtaining

1 any locally-issued business license, and without paying any business license tax, unless that
2 driver is “domiciled” in that city.

3 (c) On February 8, 2018, the City filed a lawsuit in San Francisco Superior Court
4 challenging the application of SB 182 to San Francisco, as an unlawful violation of the City’s
5 power to regulate its own municipal affairs as guaranteed by the California Constitution. *City
6 and County of San Francisco v. State of California* (S.F. Sup. Ct. No. CPF-18-516041). But,
7 in deference to state law and the judicial process, pending the resolution of this litigation, the
8 City intends to ensure that it is not in violation of SB 182.

9 (d) In addition to making the City’s business registration and fee requirements very
10 difficult to administer, SB 182, as applied in San Francisco, would lead to anomalous and
11 unfair results. TNC drivers domiciled outside of the City but providing services in the City
12 would be exempt from the City’s business registration and fee requirements, but (1) TNC
13 drivers domiciled in the City and providing identical services in the City would have to register
14 and pay, and (2) taxi drivers providing very similar services in the City would have to register
15 and pay, regardless of where they were domiciled. To avoid such unfair results, it is in the
16 City’s best interests to temporarily suspend the application of the business registration and fee
17 requirements for all TNC drivers and taxi drivers, whose only business activity in the City is
18 TNC driving or taxi driving, even though this will significantly reduce the City’s business
19 registration fee revenues.

20 (e) Accordingly, in April 2018, the City enacted Ordinance No. 93-18, which instituted
21 the temporary suspension for fiscal years ending on or before June 30, 2020. The
22 suspension was intended to remain in place through the resolution of the City’s litigation
23 challenging SB 182. Ordinance No. 298-19 extended the temporary suspension to cover
24 fiscal years ending on or before June 30, 2021, again with the intention that the suspension
25 remain in place through the resolution of the litigation.

1 (f) Because the litigation challenging SB 182 is ongoing, and because the fees for
2 business registration certificates for the fiscal year ending June 30, 2022, are due by
3 June 1, 2021, this ordinance extends the temporary suspension for an additional year.

4 (g) In applying SB 182 and temporarily suspending the business registration and fee
5 requirements for TNC drivers and taxi drivers, the City is not conceding the validity of SB 182
6 in whole or in part, as applied to the City or as applied elsewhere.

7
8 Section 2. Article 12 of the Business and Tax Regulations Code is hereby amended by
9 revising Section 853, to read as follows:

10
11 **SEC. 853. REGISTRATION CERTIFICATE – REQUIRED.**

12 (a) Except as provided in subsections (d) and (e), no person may engage in business
13 within the City unless the person has obtained a current registration certificate pursuant to this
14 Article 12. Every person engaging in business within the City shall conspicuously display a
15 current registration certificate on the business premises, regardless of whether such person is
16 subject to tax pursuant to the provisions of the Business and Tax Regulations Code.

17 (b) Any organization having a formally recognized exemption from income taxation
18 pursuant to Section 501(c), 501(d), or 401(a) of the Internal Revenue Code of 1986, as
19 amended, as qualified by Sections 502, 503, 504, and 508 of Title 26 of the Internal Revenue
20 Code of 1986, as amended, and engaging in business within the City shall obtain a
21 registration certificate.

22 (c) Failure to obtain a registration certificate shall not absolve any person from
23 payment of any tax imposed or license required by the City.

1 (d) A person receiving rental income in connection with the operation of any of the
2 following shall not, by reason of that fact alone, be required to obtain a registration certificate
3 pursuant to this Article 12:

4 (1) a cooperative housing corporation, as defined in Section 216(b) of the
5 Internal Revenue Code of 1986, as amended;

6 (2) one residential structure consisting of fewer than four units; or

7 (3) one residential condominium.

8 (e) The requirements to obtain a registration certificate and pay a fee under this
9 Article 12 shall be suspended for any driver for a transportation network company and for any
10 taxi driver for registration years 2018-2019, 2019-2020, ~~and~~ 2020-2021, and 2021-2022.

11 Additionally, the requirements to obtain a registration certificate and pay a fee under this
12 Article 12 shall be suspended for any driver for a transportation network company and for any
13 taxi driver commencing business in the City on or after January 1, 2018, for registration year
14 2017-2018. The suspensions in this subsection (e) are further qualified and defined solely for
15 purposes of this subsection (e) as follows:

16 (1) The suspensions apply only to drivers whose business activity in the City is
17 limited to transportation network company driving and/or taxi driving.

18 (2) "Transportation network company" has the same meaning as in
19 Section 5431(c) of the California Public Utilities Code.

20 (3) "Taxi" has the same meaning as in Section 1102 of Article 1100 of the
21 Transportation Code.

22 (4) The Board of Supervisors may at any time, by ordinance, extend or
23 terminate the suspensions.

LEGISLATIVE DIGEST

[Business and Tax Regulations Code - Extending Temporary Suspension of Business Registration and Fee for Transportation Network Company Drivers and Taxi Drivers]

Ordinance amending the Business and Tax Regulations Code to extend through Fiscal Year 2021-2022 the temporary suspension of the application of the business registration and fee requirements to transportation network company drivers and taxi drivers.

Existing Law

In general, the City requires each business operating within the City, including taxi drivers and persons who drive for ride-hailing entities known as transportation network companies (“TNCs”) that are independent contractors, to obtain a registration certificate and pay an annual registration fee. In April 2018, the Board of Supervisors passed Ordinance 93-18, which temporarily suspended these requirements for all TNC drivers and taxi drivers whose only business activity in the City is TNC driving or tax driving for registration years 2018-2019 and 2019-2020, and for registration year 2017-2018 for such TNC drivers and taxi drivers who commenced business in the City on or after January 1, 2018. Ordinance 298-19 extended the temporary suspension to registration year 2020-2021.

Amendments to Current Law

This ordinance would extend the temporary suspension described above to registration year 2021-2022.

Background Information

In 2017, the Legislature enacted Senate Bill 182 (“SB 182”), the effect of which is to largely immunize automobile drivers who drive for TNCs from local business license requirements. SB 182 requires a city, purportedly including a charter city, to allow such a driver to conduct business within its borders without obtaining any locally-issued business license or paying business license tax, unless that driver lives in that city. On February 8, 2018, the City filed a lawsuit in San Francisco Superior Court challenging the validity of SB 182. To ensure that drivers that live in the City are not treated less favorably than drivers that live outside the City, Ordinance 93-18 temporarily suspended the business registration and fee requirements for all TNC drivers pending the resolution of the City’s litigation challenging the validity of SB 182. Ordinance 93-18 also temporarily suspended the business registration and fee requirements for taxi drivers so that they are not treated less favorably than TNC drivers that live outside the City with respect to the City’s business registration and fee requirements. Ordinance 298-19 extended these temporary suspensions for an additional year.

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: 2/25/2021

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.

210180

Peskin

(Primary Sponsor)

Title.

Business and Tax Regulations Code - Extending Temporary Suspension of Business Registration and Fee for Transportation Network Company Drivers and Taxi Drivers

Transferring (Board Rule No 3.3)

File No.

(Primary Sponsor)

Title.

From:

Committee

To:

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 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

MEMORANDUM

TO: Jose Cisneros, Treasurer, Office of the Treasurer and Tax Collector

FROM: Linda Wong, Assistant Clerk
Budget and Finance Committee

DATE: March 2, 2021

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Budget and Finance Committee has received the following proposed legislation, introduced by Supervisor Aaron Peskin:

File No. 210180

Ordinance amending the Business and Tax Regulations Code to extend through Fiscal Year 2021-2022 the temporary suspension of the application of the business registration and fee requirements to transportation network company drivers and taxi drivers.

If you have 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 by email at: linda.wong@sfgov.org.

c: Amanda Kahn Fried, Office of the Treasurer and Tax Collector

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From: [Gee, Natalie \(BOS\)](#)
To: [Wong, Linda \(BOS\)](#)
Subject: FW: Business and Tax Regulations Code amendment suspending taxi driver fee
Date: Monday, March 15, 2021 12:39:36 PM
Attachments: [image001.png](#)
[image005.png](#)

Hi Linda,

Please add this to File No. 210180.

Thank you!

Natalie Gee 朱凱勤, Chief of Staff
Supervisor Shamann Walton, District 10
President, Board of Supervisors
1 Dr. Carlton B. Goodlett Pl, San Francisco | Room 282
Direct: 415.554.7672 | **Office:** 415.554.7670

*I am working from home due to the **COVID-19 Stay Safer At Home order** and will be most responsive by email.*

From: Toran, Kate <Kate.Toran@sfmta.com>
Date: Friday, March 12, 2021 at 3:11 PM
To: Walton, Shamann (BOS) <shamann.walton@sfgov.org>
Cc: Gee, Natalie (BOS) <natalie.gee@sfgov.org>, Burch, Percy (BOS) <percy.burch@sfgov.org>, Ramos, Joel (MTA) <Joel.Ramos@sfmta.com>, Martinsen, Janet (MTA) <Janet.Martinsen@sfmta.com>, Cranna, Philip (MTA) <Philip.Cranna@sfmta.com>
Subject: Business and Tax Regulations Code amendment suspending taxi driver fee

Dear Board President Walton,

I am writing to support the [Ordinance amending the Business and Tax Regulations Code](#) to extend the temporary suspension of the business registration and fee requirements to taxi drivers through fiscal year 2021-2022. Extending the suspension of business registration fees for taxi drivers is particularly important at this challenging time.

The SFMTA is doing its part to support the taxi industry as well, and has waived all [taxi fees](#) for two years. Additionally, the SFMTA has provided the following support to the taxi industry:

- Established the [Essential Trip Card \(ETC\) program](#) to provide discounted taxi trips for seniors and people with disabilities who would have otherwise taken the trip on Muni. Over 2,600 riders are currently signed up for this program and over 12,000 trips provided thus far.
- Created a [promotional video of ETC program](#).
- Supporting the Department of Environment's [Essential Worker Ride Home program](#),

which provides subsidized taxi trips for essential workers. SFMTA worked with the Transportation Authority and the Department of Environment staff to identify \$447,000 in funding that was reprogrammed to support this important program.

- [Provided personal protective equipment](#) (PPE) kits that include sanitizing fluid, paper towels, nitrile gloves, and face masks for taxi drivers.
- Training taxi company representatives and posted [training video on proper cleaning procedures](#).
- Ensuring that taxis are sanitized after each passenger trip.
- Procured and [distributed clear plastic shields](#) for vehicles at no charge to taxi companies. This plastic shield adds a layer of protection for both the driver and passenger.
- Publicizing the benefits of taking taxis via [Blog Post](#).
- Honoring outstanding [Every Day Heroes: Taxi Driver Corey Lamb](#).
- Increasing the per vehicle rebate up to \$7,700 in the SFMTA's [Clean Air Taxi program](#) and expanding eligibility to used vehicles. Over 96% vehicles in the taxi fleet are low-emission and play a critical role in meeting the City's ambitious climate goal of 80% of trips taken by sustainable means of travel by 2030.
- Including taxis in the expansion of the network of permanent transit only lanes, which will allow taxis to provide more efficient service to customers.
- Including taxis in the [emergency order](#) for [Temporary Transit Only Lanes](#) currently being implemented.
- Launched a pre-pilot to test concept of using taxis to provide work-related trips for city employees to replace non-revenue vehicle trips.
- Distributed [face mask stickers](#) to inform passengers that they must wear a face mask while riding in a taxi.
- Reprogrammed ~\$240,000 for a [taxi marketing campaign](#), which will be developed in winter/spring and is intended to provide sustained value over time, leveraging SFMTA's in-house marketing talent, access to on-board advertising, and public service announcements.
- SFMTA will now [pay the \\$600 cost](#) of the Substance Abuse Professional (SAP) evaluation for taxi drivers who failed the drug test as part of the driver permit renewal process
- Temporarily [suspended the Post-K full-time driving](#) requirement
- Temporarily [modified the insurance](#) requirements for a twelve-month period
- Published an [on-line map of the transit-only \(red\) lanes](#), which shows both taxi stands and red lanes that specifically allow taxis. This useful tool shows taxi drivers and potential riders how taxis are able to bypass normal vehicle restrictions with access to these lanes across the city.
- Provided information relevant to the taxi industry regarding Covid-19 [crisis resources](#), [CARES Act](#) benefits, and [Pandemic Unemployment Assistance](#).
- Requested SF Federal Credit Union establish a [loan deferral](#) program for taxi medallion holders.
- Temporarily amended the [ramp taxi incentives at SFO](#) to make it easier to qualify for the benefit and limiting the number of short trips per month. The SFO Short pass allows eligible drivers to have a maximum of 15 short trips per month.
- Updated the SFO rules to only allow pick-ups in Purchased medallions and ramp

taxis.

- Requested that taxi drivers get the vaccine shot as soon as possible, and be considered in the same group as Muni operators and paratransit drivers.
- Provided [additional access to taxi service](#) for those who use the [Essential Trip Card](#) for trips to/from vaccine appointments
- PPE Provided to the Taxi industry (minimum count) as of 3/11/21:
 - 14,504 gloves
 - 3,469 masks
 - 830 hand sanitizers
 - 87 gallons of disinfectant
 - 259 rolls of paper towels
 - 822 plastic shields installed between front and rear seat

Please let me know if you have any questions or would like a briefing on any of the aforementioned steps we have taken to support the taxi industry during these unprecedented times.

Thanks to you and your colleagues for your leadership.

Kate Toran

Director

Taxis, Access & Mobility Services Division

all pronouns welcome



Office 415.701.5235

San Francisco Municipal Transportation Agency
1 South Van Ness Avenue, 7th floor
San Francisco, CA 94103

