

File No. 101422

Committee Item No. 9

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee PUBLIC SAFETY

Date 2/17/11

Board of Supervisors Meeting

Date _____

Cmte Board

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Completed by: Gail Johnson

Date 1/14/11

Completed by: _____

Date _____

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

[Transportation Code, Police Code - Motor Vehicles for Hire and Enforcing Parking Laws]

Ordinance amending Article 3 of Division I of the San Francisco Transportation Code to allow certain Municipal Transportation Agency employees to enforce specified parking laws and order removal of vehicles, and amending Article 7 of Division I of the Transportation Code to make it a misdemeanor to operate a taxi, a dispatch service, or a color scheme, or to drive a motor vehicle for hire, without a permit, to solicit or accept payment for referral of passengers to a motor vehicle for hire, to solicit or accept payment for motor vehicle for hire shifts, assignments or dispatch calls, to knowingly make false or misleading representations in connection with application for, renewal of, possible revocation of, or operation of a vehicle pursuant to a permit issued under Article 1100 of the San Francisco Transportation Code, to refuse to pay the legal fare to a driver of a motor vehicle for hire, and to charge excessive rates for transport in a motor vehicle for hire; and amending the San Francisco Police Code by deleting Sections 1078, 1089, 1105, 1110, 1132, 1135 and 1145.

NOTE: Additions are single-underline italics Times New Roman;
deletions are ~~strike through italics Times New Roman~~.
Board amendment additions are double-underlined;
Board amendment deletions are ~~strikethrough normal~~.

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

Section 1. The San Francisco Transportation Code is hereby amended by amending Section 3.1 to read as follows:

**SEC. 3.1. POLICE COMMISSION REGULATION OF TRAFFIC; CIVILIAN
EMPLOYEES AUTHORIZED TO ENFORCE PARKING REGULATIONS.**

1 (a) The Chief of Police is hereby authorized to direct, control, divert and regulate all
2 traffic by means of Police Officers or persons designated as special police officers limited to
3 the control and direction of traffic by the Chief of Police pursuant to Section 4.127 of the
4 Charter for the exclusive or main purpose of enforcing the provisions of Division 11 of the
5 Vehicle Code, the issuance of citations for the violation of this Code, Article 12 of the Police
6 Code, or the Vehicle Code, and the emergency use of temporary signs and devices.

7 (b) Any Police Officer, ~~or~~ Parking Control Officer, or other SFMTA employee authorized
8 to enforce parking laws may issue citations to or authorize the removal of any vehicle that is
9 Parked in the street, on Public Property or in a Municipal Parking Facility, in accordance with
10 the provisions of this Code, the Police Code or the Vehicle Code. SFMTA employees whose
11 authority to enforce parking laws is limited to specified violations may order removal of a vehicle only
12 if it is parked in violation of one of the specified laws.

13 (c) Where curb painting or parking regulations are necessary for public safety, such
14 determination shall be reviewed by the Chief of Police and Fire Chief as appropriate.

15 (d) Any Parking Control Officer employed by the Municipal Transportation Agency
16 and assigned to the "Robert Greenstrand Disabled Placard Detail" shall have the power and
17 authority to issue misdemeanor citations for violations of Vehicle Code §§ 4461 and 4463.

18 (e) The Director of Transportation shall be empowered to identify staff with authority
19 to enforce other parking laws and regulations in compliance with the requirements of the
20 Vehicle Code.

21 (f) Any employee of the Municipal Transportation Agency who is authorized by the Agency
22 to enforce the provisions of Article 1100 of this Code may enforce Sections 7.2.27, regulating Parking
23 in white zones, 7.2.38, prohibiting unauthorized vehicles from Parking in Stands, 7.2.39, prohibiting
24 vehicles from Parking in Transit-Only Areas designated in Section 601, 7.2.70, prohibiting obstruction
25

1 of traffic, 7.2.80, regulating Parking of vehicles for hire in residential zones, and 7.2.86, regulating
2 idling of commercial vehicles.

3 Section 2. The San Francisco Transportation Code is hereby amended by amending
4 Section 3.3 to read as follows:

5 **SEC. 3.3. AUTHORITY TO CITE VEHICLES ON PUBLIC PROPERTY.**

6 Any Police Officer or Parking Control Officer may issue a citation to a vehicle or the
7 owner or driver of a vehicle, and/or may order the removal of any vehicle that has been
8 Parked on Public Property in violation of any prohibition contained in this Code or other
9 applicable law to the extent authorized by this Code and by applicable state and federal law.

10 SFMTA employees whose authority to enforce parking laws is limited to specified violations may order
11 removal of a vehicle only if it is parked in violation of one of the specified laws.

12 Section 3. The San Francisco Transportation Code is hereby amended by adding
13 Sections 7.3.5 through 7.3.10 to read as follows:

14 **SEC. 7.3.5 OPERATING WITHOUT A PERMIT.**

15 (a) For any person or entity to drive or operate any taxi on the public street without a
16 permit issued by the SFMTA authorizing such driving or operation. The penalty for a violation of this
17 subsection 7.3.5(b) shall be \$2,500 for the first offense and \$5,000 for the second offense, or such other
18 amount as set forth in California Public Utilities Code Section 5412.2(a). For purposes of this
19 subsection 7.3.5(a), taxi shall mean a motor vehicle for hire that picks up passengers without
20 prearrangement.

21 (b) For any person or entity to operate any Dispatch Service or to provide taxi-related
22 services to Drivers or Medallion Holders, including but not limited to procurement of a Taxi or Ramp
23 Taxi vehicle, vehicle insurance or maintenance, or the recruitment, management or scheduling of
24 Drivers, without a permit issued by the SFMTA authorizing such operation in accordance with the
25 provisions of this Code.

1 (c) For any person to drive, or to allow another person to drive, a vehicle that is authorized
2 for use as a Motor Vehicle for Hire without a Driver Permit issued by the SFMTA.

3 Unless otherwise stated, for purposes of Sections 7.3.5, 7.3.6, 7.3.7, 7.3.8, 7.3.9 and 7.3.10 of
4 Article 7 of this Code, the terms "Color Scheme," "Dispatch Service," "Dispatch Service Permit,"
5 "Driver," "Driver Permit," "Motor Vehicle for Hire," "Medallion," "Medallion Holder," "Permit
6 Holder," "Ramp Taxi," and "Taxi" shall have the meanings ascribed to these terms in Article 1100 of
7 this Code.

8 **SEC. 7.3.6 SOLICITATION AND PAID PASSENGER REFERRALS PROHIBITED.**

9 (a) For any driver of a motor vehicle for hire, or any person acting in concert with or on
10 behalf of the driver, to solicit passengers for the vehicle where the solicitation is made from any from
11 any public street, sidewalk, or other public property.

12 (b) For any person to solicit or accept payment for referral of a passenger to a motor
13 vehicle for hire, or for any person or business, firm, association or corporation to act in concert with or
14 on behalf of another person or persons to solicit or accept payments for the referral of passengers to a
15 motor vehicle for hire; provided, however, that this Section shall not apply to a Dispatch Service, a
16 passenger referral service by which passengers are able to communicate directly with drivers, or a any
17 effort on the part of a Driver to market his or her services to the public.

18 (c) For purposes of this Section, "motor vehicle for hire" shall include any taxicab,
19 limousine, or other privately owned motor-propelled passenger-carrying vehicle for hire, regardless of
20 whether the City and County has issued or could issue a permit for that vehicle.

21 **SEC. 7.3.7 GIFTS OR GRATUITIES.**

22 For any person to solicit or accept gifts and/or gratuities or anything of value from any holder
23 of a San Francisco Motor Vehicle for Hire Permit, except as authorized in this Code, in return for any
24 dispatch call, assignment, vehicle, or shift.

25 **SEC. 7.3.8 FALSE STATEMENTS PROHIBITED.**

1 For any person or entity knowingly to make any false or misleading representation, to
2 manufacture any record, or knowingly to conceal information from any person authorized by this Code
3 to enforce Motor Vehicle for Hire laws and regulations in connection with the application for, renewal
4 of, possible revocation of, or operation of vehicle pursuant to a permit issued under Article 1100 of this
5 Code.

6 **SEC. 7.3.9 REFUSAL TO PAY FARE.**

7 For any person to refuse to pay the legal fare and any applicable surcharges for a Motor
8 Vehicle for Hire.

9 **SEC. 7.3.10 EXCESSIVE AND UNAUTHORIZED CHARGES.**

10 (a) For a Driver of a motor vehicle for hire to charge a passenger any amount in excess of
11 the legally authorized rate of fare and any applicable surcharges.

12 (b) For any Medallion Holder, Color Scheme or Dispatch Service Permit Holder to levy an
13 administrative fee, service charge, processing fee, or other surcharge on Driver Permit Holders except
14 as expressly authorized in this Code.

15 Section 4. The San Francisco Police Code is hereby amended by deleting Sections
16 1078, 1089, 1105, 1110, 1132, 1135 and 1145 as follows:

17 ~~Sec. 1078 — PERMIT REQUIRED FOR OPERATION OF MOTOR VEHICLES FOR~~
18 ~~HIRE; EXCLUSIONS.~~

19 (a) ~~Permit Required. No person, business, firm, partnership, association or corporation~~
20 ~~shall drive or operate any motor vehicle for hire on the public streets of the City and County of San~~
21 ~~Francisco, nor shall any person, business, firm, partnership, association or corporation operate any~~
22 ~~taxicab radio-dispatch service or taxicab color scheme in the City and County of San Francisco,~~
23 ~~without a permit issued by the Taxi Commission authorizing such driving or operation in accordance~~
24 ~~with the provisions of this Article.~~

25 (b) ~~Limitation on Types of Vehicles for Hire. No person, business, firm, partnership,~~

1 ~~association or corporation shall drive or operate, directly or indirectly, any motor vehicle for hire on~~
2 ~~the public streets of the City and County of San Francisco which is not specifically defined in this~~
3 ~~Article; provided, however, that the Taxi Commission may declare, after a noticed public hearing, that~~
4 ~~the public convenience and necessity require the operation of a type, kind or class of motor vehicle for~~
5 ~~hire not herein defined, and issue a permit or permits for such type, kind or class of motor vehicle for~~
6 ~~hire in accordance with the procedures and provisions set forth in Sections 1079 through 1081 of this~~
7 ~~Article.~~

8 ~~(c) — Exclusions for Vehicles Licensed in Other Jurisdictions. This Article shall not apply to~~
9 ~~any motor vehicle for hire duly licensed by any city, county or other public entity which may enter the~~
10 ~~City and County of San Francisco for the purpose of delivering passengers who have hired said motor~~
11 ~~vehicle for hire within a jurisdiction in which said motor vehicle for hire is licensed to operate;~~
12 ~~provided, however, that no such motor vehicle for hire shall accept or be hired by any passenger while~~
13 ~~in the City and County of San Francisco.~~

14 ~~(d) — Exclusion for Vehicles Licensed by California PUC. This Article shall not apply to the~~
15 ~~operation of motor vehicles engaged in the business of, or used for, transporting passengers for hire~~
16 ~~when such motor vehicles are operated under and by authority of certificates of public convenience and~~
17 ~~necessity issued by the Public Utilities Commission of the State of California; provided, however, that~~
18 ~~this clause shall be construed to create an exception only to the extent, character and type of operation~~
19 ~~expressly prescribed and authorized by the certificate issued by said Public Utilities Commission and~~
20 ~~shall be limited by and entirely within the scope of said certificate as issued by said Public Utilities~~
21 ~~Commission. No limousine or other charter party carrier of passengers, whether licensed by the~~
22 ~~California Public Utilities Commission or not, shall operate as a taxicab on the public streets of the~~
23 ~~City and County of San Francisco without a permit issued by the Taxi Commission authorizing such~~
24 ~~driving or operation in accordance with the provisions of this Article.~~

25 ~~(e) — Partial Exclusion for Funeral Limousines. Any person engaged in the business of~~

1 ~~undertaker or funeral director desiring a permit for the operation of a limousine or limousines used~~
2 ~~solely in connection with said business shall not be required to qualify under Sections 1079 through~~
3 ~~1081 or Sections 1091 through 1094 of this Article; provided, however, that the Taxi Commission shall~~
4 ~~have the power to grant permits exclusively for such funeral limousines after a noticed hearing on an~~
5 ~~application therefor. The Taxi Commission may prescribe the form and content for such applications.~~
6 ~~All funeral limousine permittees shall be subject to the condition and rulemaking authority of the Taxi~~
7 ~~Commission and the Executive Director of the Taxi Commission as provided for in Section 1077 of this~~
8 ~~Article. Such permits shall be nonassignable and nontransferable.~~

9 ~~(f) — Exclusion for Employer's Buses. No permit is required under this Article for the~~
10 ~~operation of an employer's bus as defined in Section 1076(w).~~

11 ~~(g) — Exclusion for Private Ambulances. This Article shall not apply to private ambulances~~
12 ~~regulated under Part II, Chapter V of the Municipal Code (Health Code).~~

13 ~~(h) — Exclusions for Rail Vehicles. This Article shall not apply to any vehicle operating on~~
14 ~~fixed tracks or rails.~~

15 ~~Sec. 1089 — DRIVERS PERMITS.~~

16 ~~(a) — Permit Required. It shall be unlawful for any person to act as a driver of any motor~~
17 ~~vehicle for hire licensed pursuant to this Article unless that person holds a driver's permit from the~~
18 ~~Police Department issued pursuant to this Section.~~

19 ~~(b) — Application. Application for a permit to drive a motor vehicle for hire shall be made to~~
20 ~~the Chief of Police on a form provided by the Police Department and shall pay to the City and County~~
21 ~~of San Francisco a fee to cover the costs of investigating and processing the application, such fee to be~~
22 ~~determined periodically as deemed appropriate by the Police Commission. No application for a~~
23 ~~driver's permit hereunder shall be deemed to be complete until and unless such sum is fully paid.~~

24 ~~(c) — Examination for Permit. Every applicant for a driver's permit as required by this~~
25 ~~Article shall be required to take and pass an examination given by the Chief of Police. Said~~

1 examination shall cover the provisions of this Article and all rules or regulations promulgated pursuant
2 thereto, the California Vehicle Code, the traffic regulations of the City and County of San Francisco.

3 ~~(d) — Requisites for Driver's Permit. Each applicant for a driver's permit from the Chief of~~
4 ~~Police must:~~

5 ~~(1) — Be a resident of the United States, of good moral character;~~

6 ~~(2) — Be of the age of 21 years or over;~~

7 ~~(3) — Be of sound physique, with good eyesight and not subject to any disease, condition,~~
8 ~~infirmity, or addiction to the use of alcohol or any controlled substance, which might render the~~
9 ~~applicant unfit for the safe operation of a taxicab or other motor vehicle for hire;~~

10 ~~(4) — Be able to read and write the English language;~~

11 ~~(5) — Be clean in dress and person;~~

12 ~~(6) — Hold a valid California driver's license of a class sufficient for the lawful operation of~~
13 ~~the motor vehicle to be driven.~~

14 ~~(e) — Photographs of Applicant. Each applicant for a driver's permit under this Section must~~
15 ~~file with his or her application to recent photographs of himself or herself of a size that may be easily~~
16 ~~attached to a motor vehicle for hire driver's license. One copy of said photograph shall be attached to~~
17 ~~the license when issued, and carried by such licensed driver at all times when driving a taxicab or~~
18 ~~other motor vehicle for hire. The photograph shall be so attached to the license that it cannot be~~
19 ~~removed and another photograph substituted without detection. Each licensed driver shall, upon~~
20 ~~demand by any police officer or passenger, exhibit his license and photograph for inspection. The other~~
21 ~~copy of the photo shall be filed with the application to the Police Department.~~

22 ~~(f) — Issuance of Permit. After approving the application, the Chief of Police shall forward~~
23 ~~notice of that approval to the Tax Collector, who shall issue the permit upon payment by the applicant~~
24 ~~of the applicable fee.~~

25 ~~(g) — Badge for Drivers. In addition to the permits required by this Section, there shall be~~

1 ~~furnished to each licensed driver of a taxicab, or other motor vehicle for hire, upon the presentation of~~
2 ~~a driver's annual permit granted by the Chief of Police, a badge of such form and style as the Tax~~
3 ~~Collector may prescribe, with the license number of such driver thereon, which must, under penalty of~~
4 ~~revocation of the license, be constantly and conspicuously displayed on the outside of the driver's~~
5 ~~clothing when engaged in his or her employment, and shall only be worn by the person to whom the~~
6 ~~badge is issued.~~

7 ~~In addition thereto, the Tax Collector shall issue annually, to the person named in such permit,~~
8 ~~a driver's annual identification card which identification card shall be of such design and lettering as~~
9 ~~the Tax Collector shall determine. Separate fees shall be charged for the identification card and the~~
10 ~~driver's badge to cover the cost of issuance.~~

11 ~~(h) — Renewal of Driver's Permits. Driver's licenses and permits shall be issued as of the first~~
12 ~~day of January of each year and shall be valid unless revoked or suspended, up to and including the~~
13 ~~31st day of December, next succeeding. The Chief of Police may cause the renewal of the driver's~~
14 ~~license from year to year upon the filing with the Tax Collector of a statement by the driver providing~~
15 ~~his or her current address and current employer and the payment of the annual license fee. All driver's~~
16 ~~licenses and permits which are valid on the effective date of this Article shall remain in effect and may~~
17 ~~be renewed under this Section.~~

18 ~~Sec. 1105 — SOLICITATION PROHIBITED.~~

19 ~~(a) — It shall be unlawful for any driver of a motor vehicle for hire, or any person acting in~~
20 ~~concert with or on behalf of the driver, to solicit passengers for the vehicle where the solicitation is~~
21 ~~made from any public street, sidewalk, or other public place.~~

22 ~~(b) — For purposes of this Section, "motor vehicle for hire" shall include any taxicab,~~
23 ~~limousine, or other privately owned motor propelled passenger-carrying vehicle for hire, regardless of~~
24 ~~whether the City and County has or could issue a permit for that vehicle.~~

25 ~~(c) — This Section shall not prohibit solicitation of passengers otherwise authorized in~~

1 ~~connection with cab pooling pursuant to Section 1147.9.~~

2 **~~Sec. 1110 — FALSE STATEMENTS PROHIBITED.~~**

3 ~~It shall be unlawful knowingly to make any false or misleading representation, or knowingly to~~
4 ~~conceal information where this Article requires that information be disclosed, in connection with the~~
5 ~~application for, renewal of, or possible revocation of a permit issued under this Article.~~

6 **~~Sec. 1135 — RATES FOR TAXICABS.~~**

7 ~~(a) — The rates of fare for taxicabs shall be as follows: \$2.85 for the first fifth of a mile or~~
8 ~~"flag"; \$0.45 for each additional fifth of a mile or fraction thereof; \$0.45 for each one minute of~~
9 ~~waiting or traffic delay time. The aforementioned rates of fare for taxicabs shall become operative on~~
10 ~~January 1, 2003 or, if the effective date of the Ordinance creating the higher cap on gate fees provided~~
11 ~~for in Section 1135.1(b) of this Article occurs thereafter, on the effective date of that Ordinance. For~~
12 ~~out-of-town trips exceeding 15 miles beyond City limits, the fare will be 150 percent of the metered~~
13 ~~rate; for trips exceeding 15 miles from San Francisco International Airport and not terminating within~~
14 ~~the City limits of San Francisco, the fare will be 150 percent of the metered rate except for those trips~~
15 ~~from San Francisco International Airport traversing through San Francisco going to Marin County or~~
16 ~~to the East Bay the 15-mile limit will apply from the City limits of San Francisco as set forth above. For~~
17 ~~taxicab trips originating at San Francisco International Airport that incur an airport trip fee, the~~
18 ~~taxicab driver may collect \$2.00 of that trip fee from the passenger upon receipt of cab fare from the~~
19 ~~passenger.~~

20 ~~(b) — The driver of a public passenger vehicle may transport two or more passengers who~~
21 ~~voluntarily agree to share the vehicle from the same boarding point to one destination point. Each~~
22 ~~passenger shall pay a fare at the destination point in an amount equal to the total fare divided by the~~
23 ~~number of passengers sharing the ride.~~

24 ~~(c) — A passenger who first engages a public passenger vehicle has the exclusive right to~~
25 ~~conveyance therein to his or her destination. The driver shall not solicit or accept any additional~~

1 ~~passenger without the prior consent of any passenger who has previously engaged the vehicle.~~

2 ~~(d) — It shall be unlawful for any taxicab operator or taxicab dispatch service to levy an~~
3 ~~administrative fee, service charge, processing fee, or other surcharge on drivers of taxicabs for trips~~
4 ~~paid with scrip, credit cards or other non-cash tender.~~

5 ~~Sec. 1142 — REFUSAL TO CONVEY; EXCESSIVE CHARGES.~~

6 ~~(a) — Refusal to Convey. It shall be unlawful for the owner, lessee or driver of any taxicab~~
7 ~~operating under permit issued by the police authority of the City and County of San Francisco, to fail~~
8 ~~or refuse, or to permit the failure or refusal, when in service and not otherwise engaged for hire, to~~
9 ~~transport to his announced destination within the City and County of San Francisco at rates authorized~~
10 ~~in this Article, any person who presents himself for carriage in a sober and orderly manner and for a~~
11 ~~lawful purpose.~~

12 ~~(b) — Excessive Charges. Any charge made, or sought to be made, any patron of a motor~~
13 ~~vehicle for hire in excess of the charges authorized by this Article for the particular type of service~~
14 ~~rendered or sought, when shown either by confession of the party, or competent testimony, or any~~
15 ~~failure on the part of any driver or operator of any motor vehicle for hire to make proper returns to his~~
16 ~~employer, shall result in immediate suspension of the license of such driver or operator until such times~~
17 ~~as, after due process, such license is either reinstated or revoked. Either the person, or the employer of~~
18 ~~a person, responsible for any overcharge shall be required to make restitution to any defrauded patron,~~
19 ~~for the amount of such overcharge.~~

20 ~~Sec. 1145 — PENALTY FOR REFUSAL TO PAY FARE.~~

21 ~~Except where credit is extended, any person who shall fail or refuse to pay, at the end of the~~
22 ~~trip, or the termination or discharge of service, the legal fare for a motor vehicle for hire, that he has~~
23 ~~hired, shall be guilty of a misdemeanor, and upon conviction thereof, in addition to the penalty~~
24 ~~provided for the violation of Section 1185 of this Article, shall be compelled to pay to the driver of said~~
25 ~~vehicle an amount equal to the legal fare, and in case any bail required is forfeited, the amount of the~~

1 ~~legal fare shall be paid to the driver from such amount forfeited, and the Court or Judge, before whom~~
2 ~~the case is heard, shall order the same to be paid from the treasury of the City and County.~~

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

7 By:

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9 _____
10 Mariam Morley
11 Deputy City Attorney
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LEGISLATIVE DIGEST

[Motor Vehicle for Hire Misdemeanors and Authority to Enforce Parking Laws.]

Ordinance amending Article 3 of Division I of the San Francisco Transportation Code to allow certain Municipal Transportation Agency employees to enforce specified parking laws and order removal of vehicles, and amending Article 7 of Division I of the Transportation Code to make it a misdemeanor to operate a taxi, a dispatch service, or a color scheme, or to drive a motor vehicle for hire, without a permit, to solicit or accept payment for referral of passengers to a motor vehicle for hire, to solicit or accept payment for motor vehicle for hire shifts, assignments or dispatch calls, to knowingly make false or misleading representations in connection with application for, renewal of, possible revocation of, or operation of a vehicle pursuant to a permit issued under Article 1100 of the San Francisco Transportation Code, to refuse to pay the legal fare to a driver of a motor vehicle for hire, and to charge excessive rates for transport in a motor vehicle for hire, and amending the San Francisco Police Code by deleting Sections 1078, 1089, 1105, 1110, 1132, 1135 and 1145, which duplicate these new misdemeanor provisions.

Existing Law

Section 3.1 of Division I of the Transportation Code allows police officers and parking control officers to issue citations and authorize removal of vehicles parked in violation of state and local parking laws.

Article 16 of the Police Code makes it a misdemeanor or an infraction, at the discretion of the charging agency, to drive a taxi, or operate a medallion, a dispatch service or a color scheme without a permit, to solicit taxi passengers from public property, to make false statements in connection with the application for, renewal of, or possible revocation of a motor vehicle for hire permit, to refuse to pay a lawful taxi fare, to charge a passenger an excessive taxi fare, or to levy fees on drivers for fares paid with non-cash tender.

Amendments to Current Law

This legislation gives employees designated by the SFMTA to enforce parking laws the same authority now held only by police officers and parking control officers to cite and tow illegally parked vehicles. It also specifies that SFMTA employees who are authorized to enforce the SFMTA's regulations governing motor vehicles for hire -- Article 1100 of Division II of the Transportation Code -- may cite and tow vehicles parked in violation of specified parking laws relevant to the operation of motor vehicles for hire.

FILE NO.

This legislation moves, sometimes in slightly modified form, the following prohibitions from the Police Code to Division I of the Transportation Code: (1) driving a taxi without a permit; (2) operating a dispatch service or a color scheme without a permit; (3) soliciting taxi passengers from public property; (4) making false statements in connection with the application for, renewal of, or possible revocation of a motor vehicle for hire permit; (5) refusing to pay a lawful taxi fare; (6) charging a passenger an excessive taxi fare; and (7) levying fees on drivers for fares paid with non-cash tender. It makes all of these violations misdemeanors, and creates the following new motor vehicle for hire-related misdemeanors in Division I of the Transportation Code: (1) allowing another person to drive a taxi without a permit; (2) soliciting or accepting payment for referral of a taxi passenger, or assisting another to do so; (3) soliciting or accepting gifts in return for a dispatch call, an assignment, a vehicle, or a shift.

This legislation deletes Sections 1078, 1089, 1105, 1110, 1132, 1135 and 1145 of the Police Code, which duplicate the misdemeanor provisions that this legislation would add to Division I of the Transportation Code. In addition to the redundant criminal provisions, these deleted sections of the Police Code contain provisions that have already been incorporated into Division II of the Transportation Code by legislation enacted by the SFMTA Board.

Background Information

In December of 2008, this Board transferred the functions, powers and duties of the Taxi Commission to the SFMTA, giving the SFMTA exclusive authority over taxi-related functions and fees, charges, budgets, and personnel, and the authority to supersede any previously-enacted ordinances governing taxis. Accordingly, the SFMTA Board has since enacted a comprehensive set of regulations governing taxis -- Article 1100 of Division II of the Transportation Code, which are enforced by the SFMTA through the imposition of administrative penalties. When the SFMTA believes that criminal enforcement should also be an option, it will, as here, ask this Board to transfer existing criminal provisions from the Police Code to Division I of the Transportation Code, or to create new misdemeanors by amending Division I of the Transportation Code. When this effort is complete, the SFMTA will ask this Board to repeal remaining sections of Article 16 of the Police Code, and all laws and regulations governing motor vehicles for hire will reside in Divisions I and II of the Transportation Code.

SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY
BOARD OF DIRECTORS

RESOLUTION No. 10-148

WHEREAS, The SFMTA has been consistently urged by the taxi industry to implement effective enforcement against solicitation of payments for passenger referrals, illegally operating motor vehicles for hire, medallion brokers, and usurious charges to drivers by unscrupulous companies and company employees; and

WHEREAS, Where offending actions are made by a person or entity that does not hold a motor vehicle for hire permit, such as hotel employees, illegal brokers and persons driving taxi vehicles without a permit, Taxi Services may only rely on criminal misdemeanors for enforcement; and,

WHEREAS, Taxi Services' field enforcement staff require enforcement authority for a limited number of parking violations related to white zones, stands, transit-only lanes and commercial vehicle idling, and the ability to authorize vehicle tows under circumstances where towing is permitted under state law; and

WHEREAS, Taxi Services staff has prepared an ordinance for consideration by the Board of Supervisors accomplishing these objectives; now, therefore, be it

RESOLVED, The Board of Directors recommends that the Board of Supervisors adopt the proposed ordinance moving Police Code Sections 1078(a), 1105, 1110, 1145 to Division I of the Transportation Code, enacting Transportation Code, Division I, Section 3.1(f) and Sections 7.2.5 through 7.2.10 related to the operation of motor vehicles for hire, and authorize employees of Taxi Services to enforce specified parking regulations related to taxicabs.

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of NOV 16 2010.

R. Boomer

Secretary to the Board of Directors
San Francisco Municipal Transportation Agency

Gavin Newsom | Mayor

Tom Nolan | Chairman

Jerry Lee | Vice-Chairman

Cameron Beach | Director

Cheryl Brinkman | Director

Malcolm Heinicke | Director

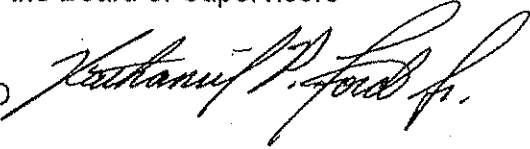
Bruce Oka | Director

Nathaniel P. Ford Sr. | Executive Director/CEO

MEMORANDUM

DATE: November 30, 2010

TO: Honorable Members of the Board of Supervisors

FROM: Nathaniel P. Ford Sr.
Executive Director/CEO 

SUBJECT: Request for approval of ordinance regarding authority for motor vehicle for hire enforcement and vehicle impounds, and establishing motor vehicle for hire related misdemeanor offenses in the San Francisco Transportation Code.

Background

The effective enforcement against illegally operating motor vehicles for hire is primary to all permit holders and the failure of enforcement has been a chronic complaint in the industry. The proposed ordinance will provide enhanced enforcement tools to Taxi Services to regulate hotel employees' conduct who sell fares as well as the hotel management that allows or participates in such conduct.

The proposed ordinance would grant citation and vehicle impound authority to SFMTA staff authorized by the Agency to enforce specified parking regulations related to motor vehicles for hire. Such authority would include the ability to cite and to impound vehicles parked or stopped in violation of any regulations that such staff are authorized to enforce.

If this ordinance is approved, the SFMTA intends to authorize Taxi Services' field enforcement staff to enforce these parking regulations in order to improve the effectiveness and efficiency of motor vehicle for hire regulation in the City.

The proposed ordinance would also move several existing misdemeanors from the Police Code to the Transportation Code establish certain fine amounts and create several new misdemeanors related to motor vehicles for hire.

Ordinance Detail

The proposed ordinance would move the following existing misdemeanors from the Police Code to the Transportation Code:

- Police Code § 1078(a), operating a motor vehicle for hire without a permit from the SFMTA would become Transportation Code § 7.3.5(a), and the penalty amount would be specified as \$2,500 for the first offense and \$5,000 for a second offense, an amount established by the California Public Utilities Code.
- Police Code § 1105, prohibiting the solicitation of passengers from a public place, would become Transportation Code § 7.3.6(a).
- Police Code § 1110, prohibiting false statements related to any motor vehicle for hire permit, would become Transportation Code § 7.3.8.
- Police Code § 1145, refusal by a passenger to pay a legitimate taxi fare, would become Transportation Code § 7.3.9.

The proposed ordinance would newly create the following misdemeanors in the Transportation Code:

- § 7.3.5(b): To operate an unpermitted dispatch service or color scheme. This amendment would create a new criminal offense with which to charge illegal medallion brokers. Today, Taxi Services has neither criminal nor administrative enforcement recourse against such illegal brokers.
- § 7.3.5(c): To allow a person without a Driver permit to drive a taxi vehicle, or to drive a taxi vehicle without a permit. Taxi Services is able to some extent to discipline the Driver of the vehicle through administrative regulations, but there should also be a severe penalty for a person who allows someone to drive a San Francisco taxi without a permit to do so.
- § 7.3.6(b): For any person to solicit or take payments, and for any person or business to act in concert with such a person, for the purpose of referring passengers to a motor vehicle for hire. The proposed language specifically excludes a dispatch service or a passenger referral service that allows passengers to communicate directly with drivers. It also excludes efforts by a driver to market his or her services directly to passengers. This misdemeanor offense is required to effectively address the chronic problem of payments made to hotel doormen to refer airport rides to illegal limousines.
- § 7.3.7: This prohibition against accepting payments or gifts from drivers in return for lucrative shifts or dispatch calls is currently contained in the administrative motor vehicle for hire regulations contained in Article 1100, Division II, but effective enforcement requires the creation of a misdemeanor offense.
- § 7.3.10(b): This section protects taxi drivers from illegal charges levied by companies, except such charges to drivers that are authorized in Division II of the regulations. Staff is in the process of drafting regulations in order to authorize various legitimate miscellaneous charges, such as parking fees, damage deposits, and reasonable vehicle repair costs when the driver is at fault. However, we are aware of companies passing on other costs to Drivers, including but not limited to credit card merchant account fees and medallion

holder permit fees. The option of charging a company with a misdemeanor for such conduct will aid in enforcement of this rule.

- § 7.3.10(a): This prohibition against a taxi driver charging more than the legal rate of fare is contained in Police Code § 1145, but only as an administrative offense, not as a misdemeanor.

Alternatives Considered

If the proposed ordinance is not adopted by the Board of Supervisors, the existing misdemeanors will remain in the Police Code. New misdemeanor offenses proposed in this ordinance would not be enacted, and there would be correspondingly fewer enforcement options available to SFMTA Taxi Services for conduct such as drivers overcharging passengers, companies overcharging drivers, illegal brokering of medallions, drivers who loan their taxi vehicle to friends or relatives, and hotel door staff and hotel management receiving money for referral of passengers. Taxi Services' field staff would not be able to enforce motor vehicle for hire-related parking ordinances or authorize towing, but would have to call a Parking Control Officer during daytime hours or the police during evening hours in order to request such citations to be issued or that a vehicle be impounded.

Status

On November 16, 2010 the SFMTA Board of Directors adopted Resolution No. 10-148, recommending that the Board of Supervisors adopt the proposed ordinance.

Recommendations

Staff recommends that the Board of Supervisors adopt the proposed ordinance to enact certain misdemeanor offenses related to the operation of motor vehicles for hire, and to authorize employees of Taxi Services to enforce specified parking regulations related to motor vehicles for hire.