

LEGISLATIVE DIGEST

[Transportation, Police, Business and Tax Regulations Codes - Motor Vehicles for Hire]

Ordinance amending the San Francisco Transportation Code, Division I, by: adding Section 1.4, confirming the transfer of jurisdiction over taxicabs to the Municipal Transportation Agency (MTA) as originally memorialized in former Police Code, Section 1075; adding Section 1.5, which is former Transportation Code, Section 7.4, requiring MTA to report quarterly to the Board of Supervisors on its progress increasing and improving taxi service; adding Section 1.6, consisting of former Police Code, Section 1135.1(d); amending Section 3.1(e), to clarify the authority of the Director of Transportation to designate staff who may enforce parking laws; deleting Section 3.1(f), which makes such designations; adding Section 3.5, granting the MTA authority to subpoena evidence and testimony relevant to its enforcement of motor vehicle for hire regulations; amending Article 7, by renumbering existing Sections 7.3.1 - 7.3.11; amending Section 7.3.50, to increase the penalty for driving or operating a taxi without a permit; adding Section 7.3.56, making it a misdemeanor to operate a taxi without a functioning taximeter; adding Section 7.3.57, making it a misdemeanor for an operator of a charter party carrier to refuse to produce a waybill; and deleting Section 7.4; amending the Police Code, by repealing Article 16, in its entirety; and amending the Business and Tax Regulations Code, by repealing Section 76.5.

Existing Law

The SFMTA has exclusive authority to regulate taxis in San Francisco, and has enacted a regulatory scheme governing taxis in Article 1100 of Division II of the Transportation Code. Article 16 of the Police Code governed taxis when they were regulated by the Police Commission, and later, by the Taxi Commission. For the most part, the provisions of Article 16 have been superseded by amendments to Division I and Division II of the Transportation Code adopted after this Board placed taxis under the jurisdiction of the SFMTA. The provisions of Article 16 are now duplicative of, conflict with, or are inconsistent with taxi regulations contained in Article 1100 of Division II and Article 7 of Division I of the Transportation Code.

The SFMTA does not have subpoena power in the context of its role as the agency that enforces taxi regulations.

The administrative penalty for driving or operating a motor vehicle for hire in San Francisco is a fine of \$5000, but the criminal penalty for the same conduct is a fine of no more than \$1000.

Article 7 of Division I of the Transportation Code designates certain violations of motor vehicle for hire regulations (found in Article 1100 of Division II of the Transportation Code) as misdemeanors. Operation of a taxi without a functioning taximeter, and refusal by the driver of a charter party carrier (limousine) to produce a waybill upon request have not been designated as criminal violations.

Amendments to Current Law

This legislation would repeal Article 16 of the Police Code in its entirety. It would also add Section 1.4 to Division I of the Transportation Code confirming this Board's 2008 transfer of jurisdiction over taxis to the SFMTA. The transfer was originally memorialized in Section 1075.1 of Article 16 of the Police Code. It would also move the language of Section 1135.1(d) of Article 16 of the Police Code, which pertains to gate fees charged from January 1, 2003 through October 27, 2006, to Section 1.6 of Division I of the Transportation Code.

This legislation would repeal Section 76.5 of the Business and Tax Regulations Code. Section 76.5 has been superseded by Sections 1105 and 1108 of Division II of the Transportation Code governing renewal of taxi driver permits.

This legislation would grant the SFMTA subpoena power to facilitate its investigations of potential violations of the Transportation Code's taxi regulations. It would also allow a hearing officer to subpoena documents or testimony, at the request of the SFMTA or the respondent, in the context of an administrative proceeding challenging an SFMTA determination that respondent has violated its taxi regulations.

This legislation would amend Article 7 of the Transportation Code to increase the criminal fine for driving or operating a taxi without a permit. And it would amend Article 7 to make it a misdemeanor to operate a taxi without a functioning taximeter, or to refuse to produce a limousine waybill upon request. This legislation would also amend Article 7 by renumbering existing Sections 7.3.1 – 7.3.11.

This legislation would renumber as Section 1.5 of the Transportation Code the current Section 7.4 of that Code, which requires the SFMTA to report quarterly to the Board of Supervisors on its efforts to improve taxi service in San Francisco. This legislation would also amend Section 3.1(e) of the Transportation Code to clarify the authority of the Director of Transportation to designate SFMTA staff members who may enforce parking laws, and to delete Section 3.1(f), which currently makes such designations.

Background Information

In December of 2008, this Board exercised its authority under Charter Section 8A.101(b) to abolish the Taxi Commission and transfer its functions to the SFMTA. Under Section 8A.101(b), the SFMTA has exclusive authority over taxis, and its regulations supersede all previously-adopted ordinances governing taxis or other motor vehicles for hire that conflict

with or duplicate such regulations. In February of 2009, the SFMTA Board adopted Article 1100 of Division II of the Transportation Code governing motor vehicles for hire, and the SFMTA Board has continued, periodically, to amend Article 1100 and Article 300 (Fines and Fees) of Division II such that they provide a comprehensive scheme of taxi regulation. In addition, in March of 2011 this Board adopted, with amendment, legislation recommended by the SFMTA Board that moved the provisions criminalizing certain taxi violations from Article 16 of the Police Code to Article 7 of Division I of the Transportation Code. That legislation also classified other violations of the SFMTA's taxi regulations as misdemeanors under Article 7. The SFMTA Board has recommended that this Board repeal Article 16 in its entirety because Article 16 is now superfluous and can only serve to confuse the public.