

Agenda Item: 5

Supporting Supervisor Daly's Legislation Adopting Standards for Pro-Rating Medallion Applicant Driving Requirement Contained in Municipal Police Code 1121 and Eliminating Time Waivers for Regular Medallion Applicants if the Amendment Becomes Law [DISCUSSION and POSSIBLE ACTION]



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HEIDI MACHEN, EXECUTIVE DIRECTOR

February 27, 2008

On Tuesday, February 26, 2008 the Taxi Commission adopted the following resolution:

RESOLUTION NO. 2008-XX
SUPPORTING AN AMENDMENT TO MUNICIPAL POLICE CODE § 1121 TO PRO-RATE THE DRIVING REQUIREMENT FOR THE YEAR IN WHICH A MEDALLION APPLICANT IS HEARD AND ELIMINATING TIME WAIVERS FOR REGULAR MEDALLION APPLICANTS IF THE AMENDMENT BECOMES LAW

WHEREAS, Municipal Police Code Section 1121 establishes a progressive driving requirement for medallion applicants culminating in their having to drive five out of the last six years by 2009; and

WHEREAS, MPC Section 1121's driving requirement presently limits an applicant's ability to use the year in which he is heard as a qualifying driving year since each year requires 800 hours or 156-4 hour shifts and applicants who are heard in the first half of the year may not have had time to accrue the necessary hours; and,

WHEREAS, using precedent set by the Police Commission, the Taxi Commission established "time-waivers" so that applicants may use up to an additional year to gain necessary qualifying hours; and,

WHEREAS, presently, about 40 persons are on "time-waivers," though approximately 90% of those are applicants acquiring necessary hours of experience with a ramped vehicle; and,

WHEREAS, Supervisor Chris Daly has proposed pro-rating the requirement for the year in which the application is heard by amending Section 1121; now, therefore, be it

RESOLVED, that the Taxi Commission does hereby support amending Municipal Police Code Section 1121 to pro-rate the driving requirement for the year in which applicants are heard; and, be it

FURTHER RESOLVED, that, in the event that the Daly amendment becomes law, the Taxi Commission eliminates time waivers for regular medallion applicants, while retaining time waivers for ramped applicants needing to attain ramped hours; and be it

FURTHER RESOLVED, that the Taxi Commission directs staff to forward this resolution to the San Francisco Board of Supervisors.

AYES:
ABSENT:

NO:
RECUSE:

Respectfully submitted,

Heidi Machen

1 [Driving-experience requirements for taxi medallion applicants.]

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3 **Ordinance amending the San Francisco Police Code by amending Section 1121, to**
4 **adjust the driving-experience requirements for taxi medallion applicants by pro-rating**
5 **the requirement for the year in which an application is heard.**

6 Note: Additions are *single-underline italics Times New Roman*;
7 deletions are *strikethrough italics Times New Roman*.
8 Board amendment additions are double underlined.
Board amendment deletions are ~~strikethrough normal~~.

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

10 Section 1. The San Francisco Police Code is hereby amended by amending
11 Section 1121, to read as follows:

12 **SEC. 1121. PERMIT APPLICATIONS; PREFERENCES; DRIVING EXPERIENCE**
13 **REQUIRED.**

14 (a) **Submission of Applications; Taxicab Waiting List.** Applications for taxicab
15 permits shall be accepted by the Taxi Commission and shall be recorded by the date and time
16 at which each application is received. The Commission shall maintain a list in the order of
17 receipt ("taxicab waiting list") of all taxicab permit applications that have not been acted upon,
18 in excess of the number of such permits authorized pursuant to Section 1079. When a
19 taxicab permit becomes available for issue and an applicant on the taxicab waiting list is
20 eligible for a hearing before the Commission, the Commission shall so notify the applicant.

21 Each applicant for a taxicab permit must, at the time of filing the application:

- 22 (1) Be a resident of the United States, of good moral character;
- 23 (2) Be 21 years or older;

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1 (3) Be free of any disease, condition, infirmity, or addiction to the use of alcohol or any
2 controlled substance, which might render the applicant unfit for the safe operation of a taxicab
3 or any other motor vehicle for hire;

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

5 (5) Be clean in dress and person;

6 (6) Hold a valid California driver's license of a class sufficient for the lawful operation of
7 the motor vehicle driven; and

8 (7) Have held a driver's permit pursuant to Section 1089 of this Article for two years
9 immediately preceding the date of application for a taxicab permit.

10 (b) **Driving Experience Required.** To qualify for issuance of a taxicab permit, an
11 otherwise qualified applicant must have the driving experience specified in subparts (i)--(vi)
12 below, subject to the modification stated in subsection (c). The required driving may be
13 satisfied only by driving a taxicab and/or ramped taxi for which a permit has been issued by
14 the Taxi Commission. For the purposes of this subsection (b), the phrase "application heard
15 by the Commission during calendar year" includes an application publicly scheduled to be
16 heard in the calendar year, but continued in that calendar year to the next calendar year by
17 the Commission.

18 (i) **For an application heard by the Commission during calendar year 2004:** The
19 applicant must have been a full-time driver during the 12 months immediately preceding the
20 Commission's hearing on the application. For the purposes of this subpart (i), "full-time driver"
21 shall be defined in accordance with Section 1076(o), except that the time frame applicable to
22 the definition is the 12 months immediately preceding the hearing on the application rather
23 than 12 months constituting a calendar year.

1 (ii) **For an application heard by the Commission during calendar year 2005:** The
2 applicant must have been a full-time driver, as defined in Section 1076(o), during calendar
3 year 2004 or the 12 months immediately preceding the hearing on the application.

4 (iii) **For an application heard by the Commission during calendar year 2006:** The
5 applicant must have been a full-time driver, as defined in Section 1076(o), during any two
6 calendar years from 2004 to 2006, inclusive.

7 (iv) **For an application heard by the Commission during calendar year 2007:** The
8 applicant must have been a full-time driver, as defined in Section 1076(o), during any three
9 calendar years from 2004 to 2007, inclusive.

10 (v) **For an application heard by the Commission during calendar year 2008:** The
11 applicant must have been a full-time driver, as defined in Section 1076(o), during any four
12 calendar years from 2004 to 2008, inclusive.

13 (vi) **For an application heard by the Commission in calendar year 2009 and**
14 **subsequent calendar years:** The applicant must have been a full-time driver, as defined in
15 Section 1076(o), for five years, as specified in Alternative 1 or Alternate 2 below.

16 **Alternative 1:** The applicant was a full-time driver during the calendar year
17 immediately preceding the hearing, and during four of the five calendar years immediately
18 preceding that calendar year.

19 **Alternative 2:** The applicant was a full-time driver during the calendar year in which
20 the application is heard, and during four of the five calendar years immediately preceding that
21 calendar year.

22 *(vii) When an applicant seeks credit as a full-time driver under this subsection (b) for the same*
23 *calendar year in which his or her application is heard by the Commission, the Commission shall pro-*
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1 rate the amount of driving required under Section 1076(o) against the portion of the calendar year that
2 has elapsed as of the date of the hearing.

3 ~~(viii)~~ ~~(vii)~~ The Commission may substitute an equivalent amount of prior full-time
4 driving experience for the experience required under subsections (b)(i)--(vi) above, where the
5 Commission determines after a public hearing that the applicant has been unjustly and
6 systematically denied employment in the taxi industry in retaliation for engaging in legitimate
7 political, expressive, or labor activity. The applicant shall have the burden of establishing such
8 a claim, and any such determination shall require a two-thirds' vote of the Commission.

9 (c) **Modification of Required Driving Experience.** If no applicant has the driving
10 experience required pursuant to subsections (b)(ii)--(vi), but public convenience and necessity
11 as determined pursuant to Section 1079 warrants issuance of a taxicab permit, the Taxi
12 Commission may issue the permit to an otherwise qualified applicant who has been a full-time
13 driver during the 12 months immediately preceding the Commission's hearing on the
14 application. For purposes of this first paragraph of subsection (c), "full-time driver" shall be
15 defined in accordance with Section 1076(o), except that the time frame applicable to the
16 definition is the 12 months immediately preceding the hearing on the application rather than
17 12 months constituting a calendar year.

18 The Commission may by regulation establish additional driving experience required for
19 the issuance of a taxicab permit under the circumstances described in this subsection (c),
20 provided that the regulation shall require neither greater driving experience than is required
21 pursuant to subsections (b)(ii) --(vi) nor driving experience for any calendar year greater than
22 the driving experience encompassed in the definition of "full-time driver in Section 1076(o).
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1 (d) **Educational Requirements.** In addition to meeting the driving requirements in
2 subsection (b) and (c), applicants must also meet any educational or training requirements
3 imposed by the Taxi Commission.

4 (e) **Burden of Proof on Applicant; Recordkeeping by Applicant.** The taxicab
5 permit applicant shall have the burden of showing that he or she has the driving experience
6 required to qualify for the taxicab permit. The applicant shall keep records sufficient to
7 document his or her driving for the calendar year or years necessary to satisfy the driving
8 requirement.

9 (f) **Recordkeeping by Color Scheme Permitholders.** Holders of color scheme
10 permits shall maintain and retain records that will document driving performed by drivers of
11 taxicabs and ramped taxis affiliated with the color scheme. Within 60 days of the effective
12 date of this subsection (e), the Taxi Commission shall adopt a regulation requiring holders of
13 color scheme permits to maintain and retain such records for a period of time sufficient to aid
14 the Commission in determining whether applicants have met the specific driving requirements
15 mandated by subsection (b). Failure of the Commission to adopt such a regulation, or failure
16 of the color scheme permitholder to comply with the regulation, shall not excuse the permit
17 applicant from the driving requirement or relieve the applicant from the burden of proving that
18 he or she has satisfied the requirement.

19 (g) **Notice of Required Driving.** Notice of the driving experience required of taxicab
20 permit applicants pursuant to subsections (b) and (c) and of the applicant's burden of proving
21 the requisite driving experience and maintaining adequate records pursuant to subsection (d),
22 shall be given by the City and color scheme permitholders pursuant to subparts (i)--(iii) below.
23 In accord with Section 1148.1(e), the notice shall also include information pertaining to
24 ramped taxi permit applicants. Failure to give the notice required by subparts (i), (ii), or (iii)
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1 shall not excuse the taxicab permit applicant from the driving requirement or relieve the
2 applicant from the burden of proving that he or she has satisfied the requirement. The Taxi
3 Commission may provide additional notice beyond that required by subparts (i)--(iii).

4 (i) Within 30 days of the effective date of this subsection (f), the Commission shall give
5 written notice of the requirements of subsections (b), (c), and (d) to each applicant on the
6 taxicab waiting list. Thereafter, the Commission shall give written notice to each new
7 applicant on the taxicab permit waiting list on or before the filing of the application.

8 (ii) Beginning no later than 30 days after the effective date of this subsection (f), the
9 Office of Treasurer and Tax Collector, in consultation with the Commission, shall give written
10 notice of the requirements of subsections (b), (c), and (d) to each person who is obtaining or
11 renewing the driver of public passenger vehicle permit. Said notice shall additionally inform
12 the person of the existence of the taxicab waiting list and the process for getting on the list.

13 (iii) Within 20 days of the effective date of this subsection (f), the Commission shall
14 adopt a regulation requiring each holder of a color scheme permit to post written notice of the
15 requirements of subsections (b), (c), and (d) at a location at the color scheme's place of
16 business that is ordinarily within the view of working taxi drivers affiliated with the color
17 scheme.

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19 APPROVED AS TO FORM:
20 DENNIS J. HERRERA, City Attorney

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22 By: _____
23 THOMAS J. OWEN
24 Deputy City Attorney
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