

**SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY**

DIVISION: Administration, Taxis and Accessible Services

BRIEF DESCRIPTION:

Requesting the San Francisco Municipal Transportation Agency (SFMTA) Board of Directors to recommend amendments to Transportation Code, Division I to the Board of Supervisors 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 taxicabs.

SUMMARY:

- The proposed ordinance would grant express authority to Taxi Services’ field enforcement staff the ability to enforce specified parking regulations. Such authority would also support their ability to tow illegally parked vehicles in violation of those sections in accordance with state laws.
- The proposed ordinance would move several existing misdemeanors from the Police Code to the Transportation Code: § 7.3.8 (to knowingly make false statement or conceal information in connection with a motor vehicle for hire permit); § 7.3.9 (to refuse to pay the legal taxi fare), § 7.3.10(a) (for a Driver to overcharge a passenger); § 7.3.5(a) (to drive or operate a taxi on City streets without a permit).
- 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.
 - § 7.3.5(c): To drive a taxi without a permit or to allow a person without a permit to drive a taxi vehicle.
 - § 7.3.6(b): For any person, and for any person or business acting in concert with that person, to take payments for the purpose of referring passengers.
 - § 7.3.7: For any permit holder to solicit or accept payments or gifts from drivers in exchange for dispatch calls, shifts, vehicles or assignments.
 - § 7.3.10(b): For any permit holder to charge drivers except such charges to drivers that are authorized in Division II of the regulations.
 - § 7.3.10(a): For a taxi driver to charge more than the legal rate of fare.

ENCLOSURES:

1. SFMTAB Resolution
2. Proposed Ordinance

APPROVALS:

DATE

DIRECTOR OF DIVISION

PREPARING ITEM _____

FINANCE _____

EXECUTIVE DIRECTOR/CEO _____

SECRETARY _____

ADOPTED RESOLUTION

BE RETURNED TO Chris Hayashi

ASSIGNED SFMTAB CALENDAR DATE: _____

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PURPOSE

To transfer motor vehicle for hire related misdemeanor offenses from the Police Code to the Transportation Code, to enact certain new misdemeanors related to motor vehicles for hire and to authorize Taxi Services' field staff to enforce specified parking regulations.

GOAL

Goal 1: Customer Focus: To provide safe, accessible, clean, environmentally sustainable service and encourage the use of auto-alternative modes through the Transit First Policy.

Objective 1.1: Improve safety and security across all modes of transportation.

Improved enforcement will improve the quality of taxi service overall. Provisions such as prohibiting any driver from loaning a taxi vehicle to another person will directly improve the safety of the industry.

Goal 3: External Affairs/Community Relations: To improve the customer experience, community value and enhance the image of the SFMTA, as well as ensure SFMTA is a leader in the industry.

Objective 3.1: Improve economic vitality by growing relationships with businesses, community and stakeholder groups.

The goal of effective enforcement against illegally operated 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 give much better enforcement tools to Taxi Services to regulate the conduct of hotel employees who sell fares and hotel management that allows or participates in such conduct.

DESCRIPTION

The proposed ordinance would move the following misdemeanors from the Police Code into 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, amounts 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.

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The proposed ordinance would newly create the following misdemeanors:

- § 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, such as TaxiMagic or Cabulous, 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.

The City Attorney has reviewed this report.

ALTERNATIVES CONSIDERED

If the proposed amendments are 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 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 doormen 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.

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FUNDING IMPACT

There is no funding impact to the agency from the proposed ordinance.

OTHER APPROVALS RECEIVED OR STILL REQUIRED

The Board of Supervisors will have to approve this ordinance before it can become effective.

RECOMMENDATION

Staff recommends that the SFMTA Board recommend the proposed ordinance to the Board of Supervisors.

SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY
BOARD OF DIRECTORS

RESOLUTION No. _____

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, and enacting Transportation Code, Division I, Section 3.1(f) and Sections 7.2.5 through 7.2.10.

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

Secretary to the Board of Directors
San Francisco Municipal Transportation Agency

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 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.

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 ~~strike through 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.

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

(b) Any Police Officer or Parking Control Officer may issue citations to or authorize the removal of any vehicle that is Parked in the street, on Public Property or in a Municipal Parking Facility, in accordance with the provisions of this Code, the Police Code or the Vehicle Code.

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

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

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

(f) Any employee of the Municipal Transportation Agency who is authorized by the Agency to enforce the provisions of Article 1100 of this Code may enforce Sections 7.2.27, regulating Parking in white zones, 7.2.38, prohibiting unauthorized vehicles from Parking in Stands, 7.2.39, prohibiting vehicles from Parking in Transit-Only Areas designated in Section 601, 7.2.80, regulating Parking of vehicles for hire in residential zones, and 7.2.86, regulating idling of commercial vehicles.

Section 2. The San Francisco Transportation Code is hereby amended by adding Sections 7.3.5 through 7.3.10 to read as follows:

SEC. 7.3.5 OPERATING WITHOUT A PERMIT.

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

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

(c) For any person to drive, or to allow another person to drive, a vehicle that is authorized for use as a Motor Vehicle for Hire without a Driver Permit issued by the SFMTA. 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 Article 7 of this Code, the terms "Color Scheme," "Dispatch Service," "Dispatch Service

Permit," "Driver," "Driver Permit," "Motor Vehicle for Hire," "Medallion," "Medallion Holder," "Permit Holder," "Ramp Taxi," and "Taxi" shall have the meanings ascribed to these terms in Article 1100 of this Code.

SEC. 7.3.6 SOLICITATION AND PAID PASSENGER REFERRALS PROHIBITED.

- (a)** For any driver of a motor vehicle for hire, or any person acting in concert with or on behalf of the driver, to solicit passengers for the vehicle where the solicitation is made from any from any public street, sidewalk, or other public property.
- (b)** For any person to solicit or accept payment for referral of a passenger to a motor vehicle for hire, or for any person or business, firm, association or corporation to act in concert with or on behalf of another person or persons to solicit or accept payments for the referral of passengers to a motor vehicle for hire; provided, however, that this Section shall not apply to a Dispatch Service, a passenger referral service by which passengers are able to communicate directly with drivers, or a any effort on the part of a Driver to market his or her services to the public.
- (c)** For purposes of this Section, "motor vehicle for hire" shall include any taxicab, limousine, or other privately owned motor-propelled passenger-carrying vehicle for hire, regardless of whether the City and County has issued or could issue a permit for that vehicle.

SEC. 7.3.7 GIFTS OR GRATUITIES.

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

SEC. 7.3.8 FALSE STATEMENTS PROHIBITED.

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

SEC. 7.3.9 REFUSAL TO PAY FARE.

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

SEC. 7.3.10 EXCESSIVE AND UNAUTHORIZED CHARGES.

- (a) For a Driver of a motor vehicle for hire to charge a passenger any amount in excess of the legally authorized rate of fare and any applicable surcharges.
- (b) For any Medallion Holder, Color Scheme or Dispatch Service Permit Holder to levy an administrative fee, service charge, processing fee, or other surcharge on Driver Permit Holders except as expressly authorized in this Code.

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

By: _____
Mariam Morley
Deputy City Attorney

THIS PRINT COVERS CALENDAR ITEM NO. : 12

**SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY**

DIVISION: Finance and Information Technology

BRIEF DESCRIPTION:

Repeal of Translink/Clipper limited use card fee with retroactive effect of October 1, 2010.

SUMMARY:

- In April 2010, as part of the SFMTA FY2011-2012 budget, the SFMTA Board of Directors approved a fee for cash paying customers who purchase a limited use TransLink/Clipper card of \$0.25 for FY 2011 and \$0.50 for FY 2012.
- The fee was imposed to allow the SFMTA to recoup a portion of the cost of providing the limited use Translink/Clipper card. These limited use Translink/Clipper cards are required given that the new fare gates do not accept cash.
- When the budget was approved in April 2010, these cards cost the SFMTA \$0.35/card. Revenue to the SFMTA as a result of the fee was budgeted at approximately \$1.4 million for FY 2011, and approximately \$2.8 million in FY 2012.
- Currently, limited use Translink/Clipper card costs have been reduced to \$0.33/card. The SFMTA has requested that the Metropolitan Transportation Commission (MTC) reimburse the SFMTA for these costs in lieu of imposing this fee.
- Should the request to the MTC be denied, costs to the SFMTA without any offsetting fee revenues would be approximately \$2.13 million for FY 2011 and \$2.13 million for FY 2012.
- The fee was discontinued on October 1, 2010.

ENCLOSURES:

1. SFMTAB Resolution
2. Appendix A-Transportation Code, Division II Modification

APPROVALS:

DATE

DIRECTOR OF DIVISION

PREPARING ITEM _____

FINANCE _____

EXECUTIVE DIRECTOR/CEO _____

SECRETARY _____

ADOPTED RESOLUTION

BE RETURNED TO: Sonali Bose

ASSIGNED SFMTAB CALENDAR DATE: _____

PURPOSE

Repeal of the Translink/Clipper limited use card fee with retroactive effect of October 1, 2010, by repealing Section 312 of the Transportation Code, Division II, to eliminate the fee.

GOAL

The retroactive repeal of the fee for the limited use Translink/Clipper card would assist the SFMTA in meeting the following Strategic Goal:

Goal 1: Customer Focus: To provide safe, accessible, clean, environmentally sustainable service and encourage the use of auto-alternative modes through the Transit First Policy.

DESCRIPTION

In April 2010, as part of the SFMTA budget for FY 2011-2012, the SFMTA Board of Directors approved a fee for cash paying customers who purchase a limited use Translink/Clipper card. The fee was imposed to allow the SFMTA to recoup a portion of the cost of the limited use Translink/Clipper card required as the new Muni Metro Station fare gates no longer accept cash as a method of payment for entry into the system.

The fee approved by the SFMTA Board is \$0.25 for FY 2011 and \$0.50 for FY 2012.

After further consideration, the Executive Director/CEO discontinued imposition of the fee on October 1, 2010.

FUNDING IMPACT

When the budget was approved in April 2010, the limited use cards cost the SFMTA \$0.35/card. Revenue to the SFMTA as a result of the fee was budgeted at approximately \$1.4 million for FY 2011, and approximately \$2.8 million in FY 2012. Currently, limited use Translink/Clipper card costs have fallen to \$0.33/card. The SFMTA has requested that the Metropolitan Transportation Commission (MTC) reimburse the SFMTA for these costs in lieu of imposing this fee. Should the request to the MTC be denied, costs to the agency would be \$2.13 million for FY 2011 and \$2.13 million for FY 2012 without any offsetting fee revenues.

APPROVALS RECEIVED OR STILL REQUIRED

The Planning Department determined that the original fee was statutorily exempt from environmental review under California Public Resources Code section 210080(b)(8) and CEQA implementing guidelines. No further environmental review is required.

The City Attorney's Office has reviewed the calendar item.

RECOMMENDATION

The SFMTA Executive Director/CEO recommends that the SFMTA Board of Directors repeal the Translink/Clipper limited use card fee with retroactive effect as of October 1, 2010, by repealing Section 312 of the Transportation Code, Division II, to eliminate the fee.

SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY
BOARD OF DIRECTORS

RESOLUTION No. _____

WHEREAS, In April 2010, as part of the SFMTA budget for FY 2011-2012, the SFMTA Board of Directors approved a fee for cash paying customers who purchase a limited use Translink/Clipper card; and,

WHEREAS, The fee was imposed to allow the SFMTA to recoup a portion of the cost of providing the limited use Translink/Clipper card as the new fare gates no longer accepted cash as a method of payment for entry into the system; and,

WHEREAS, The repeal of the fee will result in a loss of revenue to the SFMTA of approximately \$2.13 million for FY 2011 and approximately \$2.13 million for FY 2012, which the SFMTA hopes to recoup from the Metropolitan Transportation Commission (MTC); now, therefore, be it

RESOLVED, That the San Francisco Municipal Transportation Agency Board of Directors repeals the Translink/Clipper limited use card fee with retroactive effect as of October 1, 2010, by repealing Section 312 of the Transportation Code, Division II, to eliminate the fee.

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

Secretary to the Board of Directors
San Francisco Municipal Transportation Agency

Appendix A

[Repealing Section 312 of Division II of the San Francisco Transportation Code.]

Resolution amending Article 300 of the San Francisco Transportation Code, Division II, by repealing Section 312 to eliminate the Translink/Clipper Limited Use Card fee.

NOTE: Additions are single-underline Times New Roman;
deletions are ~~strike-through Times New Roman~~.

The Municipal Transportation Agency Board of Directors of the City and County of San Francisco enacts the following regulations:

Section 1. Article 300 of Division II of the Transportation Code is hereby amended by repealing Section 312 in its entirety.

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

By: _____
JOHN I. KENNEDY
Deputy City Attorney

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

Secretary to the Board of Directors
San Francisco Municipal Transportation Agency