BEFORE THE PUBLIC UTILITIES COMMISSION OF THE

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STATE OF CALIFORNIA

Order Instituting Rulemaking on Regulations Relating to Passenger Carriers, Ridesharing, and New Online-Enabled Transportation Services	R.12-12-011 (Filed April 3, 2013)

WORKSHOP STATEMENT

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The San Francisco Municipal Transportation Agency ("SFMTA") and the San Francisco International Airport ("SFO") jointly submit the following Workshop Statement in accordance with the requirements stated in Administrative Law Judge Robert M. Mason's email message of March 7, and his Scoping Memo and Ruling issued on April 2, 2013. In addition to responding, in Part II below, to the issues and questions contained in Judge Mason's email message, we have also addressed, in Part I below, the four options for regulation that the Workshop Agenda, issued on March 20, 2013, identified as the focus for discussion at the Workshop.

PART I

1. Should NOETS[1] be regulated as passenger charter-party carriers?

NOETS should be regulated as charter-party carriers because they are "engaged in the transportation of persons by motor vehicle for compensation" (Cal. Pub. Util. Code § 5360). NOETS engage the services of drivers, authorize the use of particular vehicles, establish the terms of service to passengers, set fares, collect revenue from passengers, determine what portion of the fare they will retain, and distribute the remainder of the fare revenue to their drivers. NOETS do not qualify for any of the statutory exemptions from CPUC jurisdiction.

2. Should NOETS be regulated as taxicabs?

NOETS provide what is essentially taxi service in San Francisco because they use smartphone applications to arrange trips and use GPS-enabled devices to calculate the fares for those trips based on time and distance. While taxicabs are subject to a comprehensive system of local law, NOETS currently operate outside both the state and local regulatory frameworks. If the CPUC declines to subject NOETS to the same regulatory structure that is applicable to all other charter-party carriers, NOETS should be locally regulated as taxicabs to protect the public safety.

[1] The term "NOETS" as used by the CPUC in this rulemaking proceeding refers to transportation providers that offer on-demand motor vehicle transportation for compensation that is arranged through a smartphone application. The SFMTA and SFO also use the term "NOETS" in this Workshop Statement. But because we do not believe that services providing regulated transportation through licensed charter-party carriers or taxicabs threaten public safety, our references to NOETS are not intended to address these services. For the same reason, we do not intend to address services that provide ridesharing in accordance with the statutory definition of ridesharing (see Cal. Pub. Util. Code § 5353(h)), which requires that the participants are traveling to and from work or are taking a trip that is work-related.

3. Do NOETS represent a new transportation model requiring a Third Way regulatory approach?

NOETS do not represent a new transportation model. NOETS are simply charter-party carriers whose services are arranged electronically via a smartphone application. NOETS' use of electronic hailing does not alter the nature of the transportation services they provide, or the need for regulation to protect the public. Electronic hailing is currently being utilized by licensed taxicabs and licensed charter-party carriers. The success of electronic hailing applications does not depend upon transportation being provided outside well-established regulatory standards, or upon the application of a "Third Way regulatory approach" that would impose less stringent public safety standards than those applicable to other charter-party carriers.

4. IS CPUC forbearance from regulating NOETS appropriate?

Forbearance from regulating NOETS is inconsistent with the CPUC's duty to protect the public from the risk of transportation by unsafe passenger carriers over the public roadways. Because San Francisco's taxicab industry cannot compete with transportation services that evade all regulation, the CPUC's refusal to regulate NOETS threatens the viability of our taxicab industry. The demise of the taxicab industry in San Francisco would eliminate the City's ability to provide reliable, affordable, point-to-point, on-demand motor vehicle transportation to all of its residents and visitors, including seniors and people with disabilities, without discrimination. It would also undermine the City's efforts to meet its goals for reducing traffic congestion and greenhouse gas emissions.

PART II

1. DESCRIPTION OF NEW ONLINE ENABLED TRANSPORTATION SERVICES ("NOETS")

a. <u>How are NOETS created?</u>

NOETS have not released enough information to the public about their operations to allow us to answer this question, and the answer may be different for each of the NOETS.

b. <u>Are NOETS required to register with any governmental agency?</u>

Yes. No person may engage in business within the City and County of San Francisco without obtaining a registration certificate from the Tax Collector. (S.F. Bus.& Tax Reg. Code § 853.)

Because NOETS and their drivers are engaging in business within San Francisco (see S.F. Bus. & Tax Reg. Code § 6.2-12), they are required to obtain registration certificates. Further, the provision of goods and/or services on or from SFO requires express written permission of the Airport Director (Airport Rules and Regulations, Rule 3.3(E)), and all commercial transportation providers must have a permit to operate, with the exception of taxicabs, which are regulated by local governmental agencies (Airport Rules and Regulations, Rule 4.7(A)(2) and 4.7(D)). Because NOETS fit within the state law definition of charter-party carriers (Cal. Pub. Util. Code § 5360), they are also required to obtain a license from the CPUC. NOETS and their drivers may be subject to other state and federal registration requirements as well.

c. **How do NOETS secure drivers?**

d. **How do we characterize the relationship between the driver and a NOETS (e.g. employee, independents contractor, other)?**

e. **Does a NOETS driver sign a contract or written agreement with a NOETS?**

NOETS have not released enough information to the public about their operations to allow us to answer these three questions, and the answers may be different for each of the NOETS. In addition, based on public statements made by various NOETS, their policies in regard to these matters, and others, appear to be fluid. For this reason, we again urge the CPUC to hold evidentiary hearings in this rulemaking proceeding, and require NOETS and every other party to provide documentary evidence that supports their assertions regarding their practices and policies, and to make those assertions under oath.

f. **What technology must a potential passenger have to make contact with a NOETS driver?**

It is our understanding, based on public statements made by NOETS, that a potential passenger must have a mobile device that connects to the internet, and that most users connect with NOETS using smartphones.

g. **How is a NOETS driver compensated?**

It is our understanding, based on public statements made by NOETS, that their drivers receive a portion of the fare and any tip left by the passenger.

h. Do NOETS drivers belong to a union?

It is our understanding, based on public statements made by NOETS, that NOETS drivers do not belong to a union.

i. How is a fare or donation calculated?

Based on public statements made by NOETS, we understand that most or all NOETS use GPS-enabled devices that calculate each fare, whether "suggested" or required, based on the distance traveled and the time elapsed during the trip. We believe that these devices constitute taxi meters within the meaning of CPUC General Order 157-D, Section 3.03, which prohibits charter-party carriers from using taxi meters. Use of a taxi meter to set the fare, rather than setting the fare in advance, is one of main factors that has historically been used to distinguish taxicabs from charter-party carriers. (See *Basic Information for Passenger Carriers and Applicants*, p. 7, http://www.cpuc.ca.gov/NR/rdonlyres/42294D2B-412E-466E-A74B-F1862BFC6924/0/PassengerCarriersBasicInfoandApplicantsRev012811.pdf.) The use of these GPS-enabled devices is therefore one of the features that makes NOETS look more like taxicabs than like charter-party carriers.

j. What happens if there is a dispute regarding the suggested/requested fare or donation?

k. How is the fare or donation allocated between the driver and the NOETS?

l. How does a NOETS track collected fares or donations?

NOETS have not released enough information to the public about their operations to allow us to answer these three questions, and the answers may be different for each of the NOETS. In addition, based on public statements made by various NOETS, their policies in regard to these matters, and others, appear to be fluid. For this reason, we again urge the CPUC to hold evidentiary hearings in this rulemaking proceeding, and require NOETS and every other party to provide documentary evidence that supports their assertions regarding their practices and policies, and to make those assertions under oath.

m. **Are NOETS nonprofit or for profit entities?**

It is our understanding that NOETS are for profit entities and do not qualify as nonprofit entities under the relevant provisions of state and federal law.

n. **Do NOETS pay federal, state, and local taxes?**

NOETS have not released enough information to the public about their operations to allow us to answer this question, and the answer may be different for each of the NOETS. In addition, based on public statements made by various NOETS, their policies in regard to this matter, and others, appear to be fluid. For this reason, we urge the CPUC to hold evidentiary hearings in this rulemaking proceeding, and require NOETS and every other party to provide documentary evidence that supports their assertions regarding their practices and policies, and to make those assertions under oath.

o. **Are NOETS records audited by any governmental agency?**

It is our understanding that NOETS have not been audited by any governmental entity because they refuse to submit to the jurisdiction of any governmental agency.

2. JURISDICTION

a. **The basis for the Commission's jurisdiction over NOETS.**

i. Article XII of the California Constitution.

The CPUC's authority to regulate public utilities, including its authority to establish rules for common carriers of passengers by automobile is established in Article XII of the California Constitution. (Cal. Const. art. XII, §§ 4 & 6; see also *Western Ass'n of Short Line Railroads v. Railroad Com'n of State of California* (1916) 173 Cal. 802, 805-06.)

ii. What portions of the Passenger Charter-Party Carriers' Act (Pub. Util. Code § 5351 et seq) are applicable?

The CPUC's jurisdiction over NOETS as charter-party carriers is clearly established by Public Utilities Code Sections 5352, 5353, 5360, 5360.5, and 5381.

iii. Any other statutes, rules, or orders applicable here that grants the Commission jurisdiction over NOETS?

We are not aware of any laws other than the California Constitution and the California Public Utilities Code that grant the CPUC jurisdiction over charter-party carriers, including NOETS.

iv. Should Article XII, the Passenger Charter-Party Carriers' Act, or any other statute, rule, or order be modified to enhance or clarify the Commission's jurisdiction over NOETS?

As the SFMTA argued in both its Initial and Reply Comments to the Order Instituting Rulemaking R.12-12-011, NOETS meet the definition of charter-party carriers under current law and are subject to the CPUC's regulatory jurisdiction. NOETS do not simply provide a communication platform linking drivers to potential passengers. They are "engaged in the transportation of persons by motor vehicle for compensation" (Cal. Pub. Util. Code § 5360) because they engage the services of drivers, authorize the use of particular vehicles, establish the terms of service to passengers, set fares, collect revenue from passengers, and distribute revenue to drivers. While some NOETS may characterize their fares as "donations," they do not provide transportation free of charge. NOETS use a system that rates passengers and allows drivers to refuse service to those passengers who have failed to make satisfactory "donations" in the past. Although a passenger may be able to refuse to provide compensation to a NOETS driver for a single trip, he or she is unlikely to receive rides from that NOETS in the future. Both NOETS and their drivers receive compensation for providing transportation, and that compensation is not truly voluntary.

Although the SFMTA and SFO believe that NOETS are indisputably charter-party carriers under current law, NOETS have argued vigorously in this proceeding and in the press that they are not charter-party carriers. And although several NOETS received cease and desist orders from the CPUC's Safety and Enforcement Division, they nevertheless continued to operate in reliance on their stated belief that they are not charter-party carriers. For this reason, the CPUC may wish to recommend that the State Legislature amend the following sections of the California Public Utilities Code:

1. Section 5360 defines the term "charter-party carrier of passengers" as "every person engaged in the transportation of persons by motor vehicle for compensation, whether in common or contract carriage, over any public highway in this state." Section 5360 goes on to state that term "charter-party carriers of passengers" includes hired driver services in a rented car. The Legislature could amend Section 5360 to add the following language: "'Charter party carrier of

passengers' also includes any person or entity that uses mobile internet, social media, and/or location services to access an internet platform to provide transportation by motor vehicle for compensation. For the purposes of this Section, compensation shall include any circumstance in which the passenger has authorized the electronic charge or transfer of funds to an individual or entity as a condition for receiving transportation services, regardless of whether funds are actually charged, drawn or transferred."

2. Section 5355.5 defines terms used in the Charter Party Carriers' of Passengers Act (Chapter 8 of Division 2 of the California Public Utilities Code). The Legislature could add a definition of the term "noncommercial enterprise basis" by adding a "subsection (c)," to read as follows: "'Noncommercial enterprise basis' as used in this chapter means without monetary compensation."

3. Section 5353 provides a list of those transportation for hire services that are exempt from regulation by the CPUC. Subsection (h) exempts "ridesharing," and provides a definition of the term. That definition requires that the ridesharing, and by extension any compensation received for providing the ride, be "incidental to another purpose of the driver." The Legislature could provide a test for determining whether providing transportation for compensation is, in fact, the driver's primary purpose by adding the following language to the end of subsection (h): "With respect to vehicles having a seating capacity of less than 15 passengers, an individual or entity will be deemed to have the primary purpose of providing commercial transportation if (1) the individual or entity requires passengers, as a condition for receiving transportation, to authorize the electronic transfer of funds from the passenger's financial account to an individual or entity and (2) the monetary compensation received for any single trip exceeds the cost of that trip as calculated by multiplying the number of trip miles by the annual expense, per mile, of owning and operating an automobile, as determined and published annually by the American Automobile Association."

To reiterate, the CPUC's jurisdiction over NOETS is clear as a matter of law. The legislative amendments outlined above, however, would forestall further argument that NOETS fall outside the statutory definition of "charter-party carrier of passengers" simply because their passengers use a smartphone application to arrange the transportation. The proposed amendments would also remove

any doubt that NOETS are providing transportation on a commercial enterprise basis, and are not providing ridesharing services.

v. Should any new statutes, rules, or orders be enacted?

Neither the CPUC's General Orders nor the California Public Utilities Code defines the term "taxi meter." But CPUC General Order 157-D, Section 3.03 provides as follows:

> TAXI TRANSPORTATION SERVICE NOT AUTHORIZED. A carrier is not authorized to engage in taxicab transportation service licensed and regulated by a city or county. Carriers are prohibited from using vehicles which have top lights and/or taxi meters.

NOETS do not set fares in advance, but instead calculate fares by means of a GPS-enabled device that determines the fare for each trip on the basis of the distance traveled and the time elapsed during the trip. These GPS-enabled devices function exactly like taxi meters in standard taxicabs. Thus, NOETS that use these devices are violating General Order 157-D. The CPUC should amend Section 3.03 of General Order 157 to state explicitly that GPS-enabled devices that calculate individual fares on the basis of distance traveled and time elapsed are taxi meters.

b. <u>Are there any exceptions to the Commission's jurisdictions over NOETS?</u>

i. Do NOETS fit within the definition of ridesharing as provided by Pub. Util. Code § 5353(h)?

NOETS do not fit within the statutory definition of ridesharing because their trips are not limited to the "[t]ransportation of persons between home and work locations or of persons having a common work-related trip purpose . . . ." (Cal. Pub. Util. § 5353(h).) More importantly, the "ridesharing" that NOETS drivers engage in is not "incidental to another purpose of the driver." (*Ibid.*) The statutory definition of ridesharing focuses, as it should, on the policy goal of increasing the number of passengers in cars driving to a given destination. The goal of encouraging ridesharing is to reduce overall vehicle trips (including, especially, single-occupant trips) and thereby reduce energy consumption and resultant greenhouse gas emissions. Thus, the critical element of the statutory definition of ridesharing is that rides offered to others be incidental to an intended trip by the driver.

The CPUC lacks the authority to change the statutory definition of ridesharing; only the State Legislature may do so. NOETS have argued in this rulemaking proceeding that the Legislature should expand the statutory definition of ridesharing to exempt from regulation trips that the driver would not otherwise make, but takes only for the purpose of making money. For example, SideCar argues that NOETS drivers that make less per year than the annual cost of owning a 15-passenger vehicle should be exempt from regulation as charter-party carriers. But this rule would allow NOETS drivers to escape regulation while charging their passengers the market rate for transportation. And it would effectively delete the incidental purpose requirement from the definition of ridesharing. Ridesharing trips uncoupled from the incidental purpose requirement will become *additional* vehicle trips that contribute to rather than reduce traffic congestion, energy consumption, and greenhouse gas emissions. This result would contravene the environmental and congestion management goals that the existing statutory exemption is designed to serve.

To the extent that the amount of compensation that a driver receives should be relevant to determining whether he or she is engaging in ridesharing, the CPUC might, as we has suggested in Section 2(a)(iv), above, utilize a monetary threshold as a bright-line test for deciding whether the ridesharing is incidental to the primary purpose of the driver, or whether providing transportation to others, and getting paid for it, is the driver's primary purpose.

ii. Do NOETS fit within the definition of taxicab service as provided by Pub. Util. Code § 5353(g)?

Yes. If the CPUC declines to regulate NOETS as charter-party carriers, NOETS should be considered taxicab services under Public Utilities Code Section 5353(g).

There are three key differences between charter-party carriers and taxicabs under state law. First, while charter-party carriers are regulated by the CPUC, taxicab service is exempt from CPUC regulation if it is locally licensed and regulated and is provided in vehicles that seat no more than eight persons, excluding the driver. (Cal. Pub. Util. Code § 5353(g); see also Cal. Gov't Code § 53075.5 [cities and counties shall regulate taxicab service in their jurisdictions].) Second, charter-party carriers may operate only by "prearrangement" (Pub. Util. Code § 5360.5; CPUC Gen. Order 157-D, § 3.01), while taxicabs may also respond to street hails. Third, charter-party carriers are prohibited from using

taxi meters (CPUC Gen. Order 157-D, § 3.03); taxicabs are generally required to use them (see, *e.g.*, S.F. Transp. Code § 1113(f); see also *Basic Information for Passenger Carriers and Applicants,* p. 7, http://www.cpuc.ca.gov/NR/rdonlyres/42294D2B-412E-466E-A74B-1862BFC6924/0/PassengerCarriersBasicInfoandApplicantsRev012811.pdf).

Smartphone applications and GPS-enabled fare calculation devices have undermined two of the distinctions between taxicabs and charter-party carriers. Electronic hailing can be considered a more effective and efficient form of street hailing. An electronic hail enables an intending passenger to "see" an available vehicle on his or her smartphone screen, even when the vehicle is around the corner rather than down the block. And NOETS that calculate fares using a GPS-enabled device are essentially charging for transportation services using an uncertified taxi meter. As the SFMTA noted in its Initial and our Reply Comments, NOETS could therefore be characterized as taxicabs if they were locally regulated. To the extent that the CPUC is unable or unwilling to apply to NOETS the rules that its General Orders and the Public Utilities Code set for all charter-party carriers to protect the public safety, it should give local entities the authority to regulate NOETS in their jurisdictions. The CPUC could do so by amending its General Orders to define the term "taxicab" to include NOETS. In the alternative, it could recommend that the State Legislature amend Public Utilities Code Section 5353(g) to include a definition of the term "taxicab" that includes NOETS.

iii. Do NOETS fit within the definition of an Internet Protocol-enabled service [under California Public Utilities Code Section 710]?

No. California Public Utilities Code Section 710(a) prohibits the CPUC from regulating Internet Protocol enabled services. It provides in relevant part as follows:

> The commission shall not exercise regulatory jurisdiction or control over Voice over Internet Protocol and Internet Protocol enabled services except as required or expressly delegated by federal law or expressly directed to do so by statute . . .

NOETS are not Internet Protocol-enabled services because the service that NOETS provide is transportation over the public highways. Even if the applications that NOETS use to arrange transportation between their customers and their drivers were considered Internet Protocol-enabled services, Section 710 would not prohibit the CPUC from regulating the transportation services procured over those applications.

Section 710(d), one of Section 710's many savings clauses, provides as follows:

> **This section does not affect the enforcement of any state or federal criminal or civil law or any local ordinances of general applicability**, including, but not limited to, consumer protection and unfair or deceptive trade practice laws or ordinances, **that apply to the conduct of business,** the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), local utility user taxes, **and state and local authority governing the use and management of the public rights-of-way**. (Emphasis added.)

The Passenger Charter-party Carriers' Act (Chapter 8 of Division 2 of the California Public Utilities Code) is a law of general application within the meaning of Section 710(d) that authorizes the CPUC to set and enforce safety standards for the conduct of business by all charter-party carriers in the state, without regard to whether the carriers arrange transportation via landline telephone service or via smartphone application. More importantly, the CPUC's constitutional and statutory authority to regulate charter-party carriers constitutes "state . . . authority governing the use and management of the public rights-of-way" within the meaning of Section 710(d). When the CPUC regulates NOETS as charter-party carriers it does not regulate the internet, it exercises its plenary authority to regulate the "use of the public highways for the transportation of passengers for compensation." (See Cal. Pub. Util. Code §§ 5352 & 5381.)

iv. Do NOETS fit within the definition of an information service provider [under federal law]?

No. NOETS do not fit within the definition of an information service provider under federal law. NOETS provide transportation arranged through a smartphone application. They do not provide an information service. The Telecommunications Act of 1996 preempts state and local regulation of interactive computer services, including information services. The Act defines information services as follows:

> The term "information service" means the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications, and includes electronic publishing, but does not include any use of any such capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service. (47 U.S.C. § 153(24).)

Even if the smartphone applications utilized by NOETS were considered information services within the meaning of the Telecommunications Act, the CPUC's regulation of charter-party carriers does not violate the Act. When the CPUC regulates NOETS under its authority to regulate charter-party carriers, it is not regulating the smartphone application used to arrange the transportation, it is regulating the transportation services themselves to ensure that they are safe.

c. How Should the Commission exercise its existing jurisdiction to protect public safety and encourage innovation?

The CPUC should require NOETS to comply, at a minimum, with all regulations applicable to other charter-party carriers, or to limit their delivery of services to those that meet the statutory definition of ridesharing. As the SFMTA stated in its Initial and Reply Comments, the use of electronic hailing applications to deliver transportation for hire services does not change the underlying nature of the services or the need for regulation to protect the public. Allowing NOETS to operate outside the established regulatory framework is inconsistent with the CPUC's duty to regulate passenger carriers to protect the public safety. Likewise, a diluted form of regulation like that contained in the interim settlements with Uber and Zimride will not adequately protect the public. In this proceeding NOETS have offered no evidence, or even a credible argument, that their for-hire transportation services differ substantially from the services provided by other charter-party carriers, or that any such difference would justify holding NOETS to less stringent safety standards than the standards that the CPUC and the State Legislature have seen fit to apply to all other charter-party carriers.

NOETS have argued, however, that because their technology is new, the CPUC should proceed with caution. They argue that regulation could have the effect of stifling innovation. The SFMTA and SFO see no such danger.

Electronic hailing of transportation providers is the wave of the future, and it has great potential to enhance federal, state, and local environmental goals and the quality of life in our cities. But electronic hailing is not limited to "ridesharing." Rather, this technology can be used to hail a shared ride, a taxicab, or a limousine. Smartphone applications have been a common means of hailing a taxicab in San Francisco and other cities for several years, and smartphone application developers

have entered into contracts with some taxicab companies and individual taxicab drivers in San Francisco. Because the existing applications do not provide access to the entire licensed fleet, the SFMTA has entered into a contract for development of a communications platform that will allow passengers to summon *any* taxicab in the City's licensed fleet from an electronic hailing application. Thus, nothing about the success and value of electronic hailing technology is inconsistent with regulation of the transportation providers that are being hailed. Innovation does not depend upon the use of unregulated or minimally-regulated drivers and vehicles.

3. <u>**Public Safety**</u>

a. What are the likely consequences to public safety, with special attention paid to avoiding "unanticipated consequences," if the Commission exercises its jurisdiction?

If the CPUC exercises its jurisdiction, our public highways will be safer. A CPUC decision to enforce existing state law by requiring NOETS to comply with the same regulations applicable to all other charter-party carriers, or to limit their services to exempt ridesharing, would increase the safety of the public by reducing the risk that NOETS are entrusting passengers to unsafe vehicles and drivers, and by improving the chances that, in the event of an accident caused by a NOETS driver, passengers, pedestrians, drivers, or other members of the public will be compensated for personal injury, including death, or for damage to property.

b. What are the likely consequences to public safety, with special attention paid to avoiding "unanticipated consequences," if the Commission declines to exercise its jurisdiction?

NOETS provide passenger transportation by motor vehicle for compensation. As such, they are charter-party carriers, and are engaged in a business that has been subject to regulation in California for more than a hundred years. (See *Western Ass'n Of Short Line Railroads v. Railroad Commission Of State Of California* (1917) 173 Cal. 802, 808.) Allowing these businesses to operate outside of the regulatory structure that applies to every other charter-party carrier in the state would present grave risks to public safety, including the risk that drivers or vehicles are unsafe, and that injured passengers, pedestrians, or other drivers will not be compensated for injury caused by a NOETS driver.

California law recognizes that the transportation of passengers for compensation is a service that affects the public interest and that the state has an obligation to protect the public safety through regulation of businesses that provide such service. (Cal. Pub. Util. Code §§ 5353 & 5381.) The Passenger Charter-party Carriers' Act (Chapter 8 of Division 2 of the California Public Utilities Code) and the CPUC's General Orders therefore protect the public by imposing safety standards governing many aspects of charter-party carriers' operations, including the following:

1. Drug and Alcohol Testing

All charter-party carrier applicants must provide a mandatory controlled substance and alcohol testing certification program for their drivers, and the program must comply with federal law. (See CPUC Gen. Order 157-D, Part 10.) It must include pre-employment testing, post-accident testing, random testing, testing due to reasonable suspicion, follow-up testing, and return-to-duty testing. The charter-party carrier must provide educational materials to its drivers explaining the federal requirements, the requirements of the CPUC's General Order, and the carrier's policies and procedures designed to meet those requirements, and must advise employees of the resources available to deal with substance abuse problems.

2. Driver's Driving Records

Every charter-party carrier must enroll in the California Department of Motor Vehicles' "Pull Notice Program." (CPUC Gen. Order 157-D, Section 5.02.) The Pull Notice Program provides the charter-party carrier with a report showing each driver's convictions, failures to appear, and accidents, and each driver's license suspensions, driver's license revocations, and other actions taken against the driver's driving privilege. (Cal. Veh. Code § 1808.1.) The Program also requires that the charter-party carrier obtain updated reports for all of its drivers on a periodic basis. (*Ibid.*) It thereby enables a charter-party carrier to prevent an unsafe driver from continuing to serve the public.

3. Vehicle Inspection

Charter-party carriers must comply with the California Highway Patrol's Motor Carrier Safety regulations, which require the carrier, among other things, to inspect and maintain its vehicles to ensure that they are in safe operating order. (See CPUC Gen. Order 157-D, § 4.02; Cal. Code Regs.,

tit. 13, § 1232.) Charter-party carriers must also maintain proper documentation of such inspections. (CPUC Gen. Order 157-D, § 4.02.)

4. Insurance

Public Utilities Code Section 5391 provides that the CPUC shall require charter-party carriers to procure and maintain liability insurance in an amount to be determined by the CPUC, covering bodily injury, including death, and property damage. The CPUC directs charter-party carriers operating vehicles with a capacity of seven passengers or fewer to provide at least $750,000 in coverage. (CPUC Gen. Order 157-D, §1.05; CPUC Gen. Order 115-F.)

NOETS argue that they should not be subject to these safety regulations because they are not charter-party carriers. But there is nothing about the business model of offering for-hire transportation service through a smartphone application that justifies abandoning the fundamental regulatory infrastructure of the transportation for-hire industry. Nor does the use of technology reduce the risks associated with members of the public placing themselves in the care and control of private individuals to carry them to their destinations. NOETS assert that they have instituted their own safety procedures in lieu of submitting to CPUC regulation. Voluntary procedures that can be changed at any time for any reason and with no notice to the public are insufficient to protect the public. Absent regulation, NOETS are under no obligation to verify the exact nature of their safety procedures, or prove that they are, in fact, complying with them. For example, some NOETS have asserted that they have procured liability insurance, but have described the insurance in very general terms, and have declined to disclose copies of their policies. Lyft's interim settlement with the CPUC even bars the CPUC from releasing a copy of its insurance policy to the public.

To protect the public, the CPUC must exercise its jurisdiction over NOETS to the same extent that it exercises its jurisdiction over other charter-party carriers. If, instead, the CPUC decides to recommend that the State Legislature amend the Public Utilities Code to exempt NOETS from the definition of "charter-party carrier," it should also recommend that the State Legislature confirm that NOETS are providing taxicab service subject to local regulation.

4. <u>Insurance and Background Checks</u>

a. Are there any existing statutes, rules, or orders requiring insurance for NOETS?

NOETS, like other charter-party carriers, are governed by the insurance requirements of Public Utilities Code Section 5391 and CPUC General Order 157-D, Section 1.05, and General Order 115-F.

b. Are there any existing statutes, rules, or orders requiring insurance for a NOETS driver?

NOETS drivers are also governed by the insurance requirements of Public Utilities Code Section 5391, CPUC General Order 157-D, Section 1.05, and General Order 115-F.

c. What are the types of insurance available to NOETS vehicles?

We presume that NOETS have access to the same insurance coverage available to other charter-party carriers. Any difficulty that NOETS may have procuring such insurance for their drivers or vehicles may indicate that NOETS' business practices create more risk of liability than do the business practices of other charter-party carriers.

d. Are there any minimum required levels of insurance coverage?

CPUC General Order 115-F requires NOETS to provide $750,000 of liability insurance for their vehicles with a seating capacity of 7 passengers or less.

e. What are the protocols for maintaining insurance coverage?

f. What are the protocols for providing evidence of insurance coverage?

We assume that these two questions refer to the protocols for maintaining insurance coverage and providing evidence of insurance coverage that NOETS have developed for their drivers. NOETS have not released enough information to the public about their operations to allow us to answer these questions, and the answers may be different for each of the NOETS. In addition, based on public statements made by various NOETS, their policies in regard to these matters, and others, appear to be fluid. For this reason, we again urge the CPUC to hold evidentiary hearings in this rulemaking proceeding, and require NOETS and every other party to provide documentary evidence that supports their assertions regarding their practices and policies, and to make those assertions under oath.

g. Should the Commission modify any existing statutes, rules, or orders on the matter of insurance?

We see no need to modify the existing state statute and CPUC General Orders regarding insurance coverage for charter-party carriers.

h. Should the Commission enact any new existing statutes, rules, or orders on the matter of insurance?

We see no need for new statutes, rules or orders regarding insurance.

i. Are there any existing statutes, rules, or orders for conduction or requiring background and safety checks for NOETS drivers?

NOETS, like other charter-party carriers, must enroll their drivers in the Department of Motor Vehicles' "Pull Notice Program." (See CPUC Gen. Order 157-D, § 5.02; Cal. Veh. Code § 1808.1.)

j. If not, what statutes, rules, or orders should the Commission adopt for conducting background and safety checks for NOETS drivers?

Not applicable.

5. <u>Accessibility and Equal Access Issues</u>

a. What protocols are in place for NOETS to comply with current Federal and State accessibility requirements?

We not aware of any efforts that NOETS have made to comply with their obligations under Title III of the Americans with Disabilities Act, California's Unruh Act, or other legislation prohibiting discrimination against people with disabilities, or others, in places of public accommodation.

b. Does a NOETS driver have to comply with current Federal and State accessibility requirements to accommodate passengers with accessibility needs?

While NOETS are subject to the requirements of Title III of the Americans with Disabilities Act, California's Unruh Act, and other disability rights legislation, we are aware of no requirements imposed by NOETS on their drivers to ensure compliance with these requirements. To the contrary, the public information released by NOETS indicates that their drivers may refuse service to potential passengers for any reason, including because the potential passenger has a disability that makes transporting him or her more onerous than transporting a passenger who does not have a disability.

c. **What is the service territory for a NOETS driver?**

NOETS have not released enough information to the public about their operations to allow us to answer this question, and the answer may be different for each of the NOETS. In addition, based on public statements made by various NOETS, their policies in regard to this matter, and others, appear to be fluid. For this reason, we again urge the CPUC to hold evidentiary hearings in this rulemaking proceeding, and require NOETS and every other party to provide documentary evidence that supports their assertions regarding their practices and policies, and to make those assertions under oath.

d. **Does a NOETS driver have the discretion not to pick up particular passengers or not to drive to particular neighborhoods?**

NOETS' public statements and advertisements indicate that NOETS allow their drivers complete discretion to decide whether or not to pick up a particular passenger. That exercise of discretion may be informed by the previous ratings that the passenger has received from other drivers. NOETS' public statements and advertisements also indicate that NOETS allow their drivers complete discretion to decide whether or not to travel to particular neighborhoods within the City.

e. **Should there be any modification to any existing statutes, rules, or orders to ensure accessibility and equal access to NOETS and NOETS drivers?**

NOETS provide what is essentially taxi service in San Francisco because they use smartphone applications to arrange trips and GPS-enabled devices to calculate the fares for those trips based on time and distance. But local agencies currently have no control over this de facto for-hire motor vehicle transportation within their jurisdictions. For this reason, the CPUC should consider requiring NOETS, like taxicabs, to provide transportation to the public without discrimination.

6. The manner in which Commission regulation may enhance or impede public access to public roadways.

As many parties to this Rulemaking proceeding have argued, the taxicab industry in San Francisco, which is subject to comprehensive local regulation, cannot compete with transportation services that operate outside regulatory control. Therefore, unless the CPUC commits to enforcing existing state law against all charter-party carriers, including NOETS, there is a real risk that San Francisco may no longer be able to ensure the availability of taxicab service. Because the taxicab

industry in San Francisco provides point-to-point, on-demand transportation 24 hours a day and 365 days a year to all passengers, regardless of age, socio-economic level, national origin, sexual orientation, race, physical or mental disability, or the amount of prior "donations," its demise will impede access by many members of the public to transportation by motor vehicle over public roadways.

San Francisco's taxicab regulations require taxicab drivers to pick up all prospective passengers; exceptions to this rule are very limited (S.F. Transp. Code § 1108(e)(1).) Taxicabs in San Francisco must also provide on-demand transportation to the disabled community. Similarly, the commercial transportation permits issued by SFO include the requirement that permittees comply with the ADA and all other applicable laws. San Francisco taxicabs provide roughly 300,000 paratransit trips per year to individuals who cannot use fixed route public transit.

Unlike taxicabs, many NOETS expressly instruct drivers that they are free to choose whom to transport. NOETS provide an easy platform for drivers to rate passengers, and a passenger who does not maintain a certain rating is removed from the system. This license to discriminate could easily eliminate NOETS as a transportation option for many potential passengers based upon their personality, political beliefs, mental disability, age, tipping practices, ethnic origin, neighborhood of residence, or conversational style. San Francisco needs a robust taxicab service to ensure that passengers deemed undesirable by NOETS drivers will continue to have access to for-hire motor vehicle transportation over public roadways. Taxicab service in San Francisco cannot remain a viable option for such passengers if the CPUC refuses to apply existing state law governing charter-party carriers to NOETS.

Finally, SFO's limited roadways are especially prone to congestion by buses, shared ride vans, limousines and taxicabs. SFO is able to minimize traffic congestion and customer confusion through its permits and Rules and Regulations. Although both taxi and limousine drivers would prefer to drop off and pick up passengers whenever and wherever they like, they are required to comply with SFO regulations. Excluding NOETS from the same regulations would increase congestion, increase customer confusion, and give NOETS an unfair competitive advantage over the regulated transportation modes at SFO.

7. Any Other Statutes, Rules, or Orders Relevant to the Resolution of this OIR that should be Identified.

California Government Code Section 53075.5, which provides that "every city or county shall protect the public health, safety, and welfare by adopting an ordinance or resolution in regard to taxicab transportation service rendered in vehicles designed for carrying not more than eight persons, excluding the driver, which is operated within the jurisdiction of the city or county."

8. Any other material issues relevant to the resolution of this OIR not discussed above.

San Francisco's taxicab regulations serve many of the City's critical public policy goals, including reducing traffic congestion and decreasing greenhouse gas emissions. The SFMTA's limit on the number of taxicab medallions helps to reduce traffic congestion during peak periods, and its environmental regulations minimize the taxicab fleet's contribution to greenhouse gas emissions by requiring all newly-purchased cabs to be hybrid or low emission vehicles But NOETS have effectively eliminated all regulatory control by the SFMTA over the number of for-hire vehicles on the street. Therefore, new fleets of wholly-unregulated personal vehicles are now providing taxicab-like service in the City, and are flooding City streets with additional vehicles during peak periods. This unrestricted influx of vehicles undermines the City's efforts to regulate the flow of traffic and decrease

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congestion. It also frustrates the City's ability to reduce vehicle emissions and resulting greenhouse gases because, unlike the City's taxicab fleet, NOETS vehicles need not be low emission vehicles.

Similarly, unregulated NOETS undermine SFO's efforts to control its very limited roadways.

Dated: April 3, 2013

Respectfully submitted,

By: /s/
EDWARD D. REISKIN

Director of Transportation
San Francisco Municipal Transportation Agency

By: /s/
TRYG MCCOY

Chief Operating Officer
San Francisco International Airport

APPENDIX

Tab A :	Title III of the Americans with Disabilities Act, 42 United States Code Sections 12181-12189
Tab B:	Title 13 of the California Code of Regulations Section 1232
Tab C:	Article XII of the California Constitution Sections 4 and 6
Tab D:	California Government Code Section 53075.5
Tab E:	California Public Utilities Code Sections 710, 5351, 5352, 5353, 5355.5, 5360, 5360.5, 5381 and 5391
Tab F::	California Public Utilities Commission, Basic Information for Passenger and Applicants, page 7
Tab G:	California Public Utilities Commission General Orders 115-F and 157-D
Tab H:	California Vehicle Code Section 1808.1
Tab I :	San Francisco Business & Tax Regulations Code Sections 6.2-12 and 853
Tab J	San Francisco Airport Rules and Regulations, Rules 3.3(E), 4.7(A) and 4.7(D)
Tab K:	San Francisco Transportation Code Sections 1108 and 1113
Tab L :	Telecommunications Act of 1996, 47 United States Code Section 153(24)
Tab M:	Unruh Civil Rights Act, California Civil Code Section 51
Tab N:	*Western Ass'n of Short Line Railroads v. Railroad Commission of State of California* (1916) 173 Cal. 802

Title III of the Americans with Disabilities Act,
42 United States Code Sections 12181-12189

TAB A

SUBCHAPTER III - PUBLIC ACCOMMODATIONS AND SERVICES OPERATED BY PRIVATE ENTITIES

Sec. 12181. Definitions

As used in this subchapter:

(1) Commerce. The term "commerce" means travel, trade, traffic, commerce, transportation, or communications

(A) among the several States;

(B) between any foreign country or any territory or possession and any State; or

(C) between points in the same State but through another State or foreign country.

(2) Commercial facilities. The term "commercial facilities" means facilities

(A) that are intended for nonresidential use; and

(B) whose operations will affect commerce.

Such term shall not include railroad locomotives, railroad freight cars, railroad cabooses, railroad cars described in section 12162 of this title or covered under this subchapter, railroad rights-of-way, or facilities that are covered or expressly exempted from coverage under the Fair Housing Act of 1968 (42 U.S.C. 3601 et seq.).

(3) Demand responsive system. The term "demand responsive system" means any system of providing transportation of individuals by a vehicle, other than a system which is a fixed route system.

(4) Fixed route system. The term "fixed route system" means a system of providing transportation of individuals (other than by aircraft) on which a vehicle is operated along a prescribed route according to a fixed schedule.

(5) Over-the-road bus. The term "over-the-road bus" means a bus characterized by an elevated passenger deck located over a baggage compartment.

(6) Private entity. The term "private entity" means any entity other than a public entity (as defined in section 12131(1) of this title).

(7) Public accommodation. The following private entities are considered public accommodations for purposes of this subchapter, if the operations of such entities affect

commerce

(A) an inn, hotel, motel, or other place of lodging, except for an establishment located within a building that contains not more than five rooms for rent or hire and that is actually occupied by the proprietor of such establishment as the residence of such proprietor;

(B) a restaurant, bar, or other establishment serving food or drink;

(C) a motion picture house, theater, concert hall, stadium, or other place of exhibition entertainment;

(D) an auditorium, convention center, lecture hall, or other place of public gathering;

(E) a bakery, grocery store, clothing store, hardware store, shopping center, or other sales or rental establishment;

(F) a laundromat, dry-cleaner, bank, barber shop, beauty shop, travel service, shoe repair service, funeral parlor, gas station, office of an accountant or lawyer, pharmacy, insurance office, professional office of a health care provider, hospital, or other service establishment;

(G) a terminal, depot, or other station used for specified public transportation;

(H) a museum, library, gallery, or other place of public display or collection;

(I) a park, zoo, amusement park, or other place of recreation;

(J) a nursery, elementary, secondary, undergraduate, or postgraduate private school, or other place of education;

(K) a day care center, senior citizen center, homeless shelter, food bank, adoption agency, or other social service center establishment; and

(L) a gymnasium, health spa, bowling alley, golf course, or other place of exercise or recreation.

(8) Rail and railroad. The terms "rail" and "railroad" have the meaning given the term "railroad" in section 20102[1] of title 49.

(9) Readily achievable. The term "readily achievable" means easily accomplishable and able to be carried out without much difficulty or expense. In determining whether an action is readily achievable, factors to be considered include

(A) the nature and cost of the action needed under this chapter;

(B) the overall financial resources of the facility or facilities involved in the action; the number of persons employed at such facility; the effect on expenses and resources, or the impact otherwise of such action upon the operation of the facility;

(C) the overall financial resources of the covered entity; the overall size of the business of a covered entity with respect to the number of its employees; the number, type, and location of its facilities; and

(D) the type of operation or operations of the covered entity, including the composition, structure, and functions of the workforce of such entity; the geographic separateness, administrative or fiscal relationship of the facility or facilities in question to the covered

entity.

(10) Specified public transportation. The term "specified public transportation" means transportation by bus, rail, or any other conveyance (other than by aircraft) that provides the general public with general or special service (including charter service) on a regular and continuing basis.

(11) Vehicle. The term "vehicle" does not include a rail passenger car, railroad locomotive, railroad freight car, railroad caboose, or a railroad car described in section 12162 of this title or covered under this subchapter.

Sec. 12182. Prohibition of discrimination by public accommodations

(a) General rule. No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any person who owns, leases (or leases to), or operates a place of public accommodation.

(b) Construction

(1) General prohibition

(A) Activities

(i) Denial of participation. It shall be discriminatory to subject an individual or class of individuals on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements, to a denial of the opportunity of the individual or class to participate in or benefit from the goods, services, facilities, privileges, advantages, or accommodations of an entity.

(ii) Participation in unequal benefit. It shall be discriminatory to afford an individual or class of individuals, on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements with the opportunity to participate in or benefit from a good, service, facility, privilege, advantage, or accommodation that is not equal to that afforded to other individuals.

(iii) Separate benefit. It shall be discriminatory to provide an individual or class of individuals, on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements with a good, service, facility, privilege, advantage, or accommodation that is different or separate from that provided to other individuals, unless such action is necessary to provide the individual or class of individuals with a good, service, facility, privilege, advantage, or accommodation, or other opportunity that is as effective as that provided to others.

(iv) Individual or class of individuals. For purposes of clauses (i) through (iii) of this subparagraph, the term "individual or class of individuals" refers to the clients or customers of the covered public accommodation that enters into the contractual, licensing or other arrangement.

(B) Integrated settings. Goods, services, facilities, privileges, advantages, and accommodations shall be afforded to an individual with a disability in the most integrated setting appropriate to the needs of the individual.

(C) Opportunity to participate. Notwithstanding the existence of separate or different programs or activities provided in accordance with this section, an individual with a disability shall not be denied the opportunity to participate in such programs or activities

that are not separate or different.

(D) Administrative methods. An individual or entity shall not, directly or through contractual or other arrangements, utilize standards or criteria or methods of administration

(i) that have the effect of discriminating on the basis of disability; or

(ii) that perpetuate the discrimination of others who are subject to common administrative control.

(E) Association. It shall be discriminatory to exclude or otherwise deny equal goods, services, facilities, privileges, advantages, accommodations, or other opportunities to an individual or entity because of the known disability of an individual with whom the individual or entity is known to have a relationship or association.

(2) Specific prohibitions

(A) Discrimination. For purposes of subsection (a) of this section, discrimination includes

(i) the imposition or application of eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully and equally enjoying any goods, services, facilities, privileges, advantages, or accommodations, unless such criteria can be shown to be necessary for the provision of the goods, services, facilities, privileges, advantages, or accommodations being offered;

(ii) a failure to make reasonable modifications in policies, practices, or procedures, when such modifications are necessary to afford such goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless the entity can demonstrate that making such modifications would fundamentally alter the nature of such goods, services, facilities, privileges, advantages, or accommodations;

(iii) a failure to take such steps as may be necessary to ensure that no individual with a disability is excluded, denied services, segregated or otherwise treated differently than other individuals because of the absence of auxiliary aids and services, unless the entity can demonstrate that taking such steps would fundamentally alter the nature of the good, service, facility, privilege, advantage, or accommodation being offered or would result in an undue burden;

(iv) a failure to remove architectural barriers, and communication barriers that are structural in nature, in existing facilities, and transportation barriers in existing vehicles and rail passenger cars used by an establishment for transporting individuals (not including barriers that can only be removed through the retrofitting of vehicles or rail passenger cars by the installation of a hydraulic or other lift), where such removal is readily achievable; and

(v) where an entity can demonstrate that the removal of a barrier under clause (iv) is not readily achievable, a failure to make such goods, services, facilities, privileges, advantages, or accommodations available through alternative methods if such methods are readily achievable.

(B) Fixed route system

(i) Accessibility. It shall be considered discrimination for a private entity which operates a fixed route system and which is not subject to section 12184 of this title to

purchase or lease a vehicle with a seating capacity in excess of 16 passengers (including the driver) for use on such system, for which a solicitation is made after the 30th day following the effective date of this subparagraph, that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(ii) Equivalent service. If a private entity which operates a fixed route system and which is not subject to section 12184 of this title purchases or leases a vehicle with a seating capacity of 16 passengers or less (including the driver) for use on such system after the effective date of this subparagraph that is not readily accessible to or usable by individuals with disabilities, it shall be considered discrimination for such entity to fail to operate such system so that, when viewed in its entirety, such system ensures a level of service to individuals with disabilities, including individuals who use wheelchairs, equivalent to the level of service provided to individuals without disabilities.

(C) Demand responsive system. For purposes of subsection (a) of this section, discrimination includes

(i) a failure of a private entity which operates a demand responsive system and which is not subject to section 12184 of this title to operate such system so that, when viewed in its entirety, such system ensures a level of service to individuals with disabilities, including individuals who use wheelchairs, equivalent to the level of service provided to individuals without disabilities; and

(ii) the purchase or lease by such entity for use on such system of a vehicle with a seating capacity in excess of 16 passengers (including the driver), for which solicitations are made after the 30th day following the effective date of this subparagraph, that is not readily accessible to and usable by individuals with disabilities (including individuals who use wheelchairs) unless such entity can demonstrate that such system, when viewed in its entirety, provides a level of service to individuals with disabilities equivalent to that provided to individuals without disabilities.

(D) Over-the-road buses

(i) Limitation on applicability. Subparagraphs (B) and (C) do not apply to over-the-road buses.

(ii) Accessibility requirements. For purposes of subsection (a) of this section, discrimination includes

(I) the purchase or lease of an over-the-road bus which does not comply with the regulations issued under section 12186(a)(2) of this title by a private entity which provides transportation of individuals and which is not primarily engaged in the business of transporting people, and

(II) any other failure of such entity to comply with such regulations.

(3) Specific construction. Nothing in this subchapter shall require an entity to permit an individual to participate in or benefit from the goods, services, facilities, privileges, advantages and accommodations of such entity where such individual poses a direct threat to the health or safety of others. The term "direct threat" means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, or procedures or by the provision of auxiliary aids or services.

Sec. 12183. New construction and alterations in public accommodations and commercial facilities

(a) Application of term. Except as provided in subsection (b) of this section, as applied to public accommodations and commercial facilities, discrimination for purposes of section 12182(a) of this title includes

(1) a failure to design and construct facilities for first occupancy later than 30 months after July 26, 1990, that are readily accessible to and usable by individuals with disabilities, except where an entity can demonstrate that it is structurally impracticable to meet the requirements of such subsection in accordance with standards set forth or incorporated by reference in regulations issued under this subchapter; and

(2) with respect to a facility or part thereof that is altered by, on behalf of, or for the use of an establishment in a manner that affects or could affect the usability of the facility or part thereof, a failure to make alterations in such a manner that, to the maximum extent feasible, the altered portions of the facility are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs. Where the entity is undertaking an alteration that affects or could affect usability of or access to an area of the facility containing a primary function, the entity shall also make the alterations in such a manner that, to the maximum extent feasible, the path of travel to the altered area and the bathrooms, telephones, and drinking fountains serving the altered area, are readily accessible to and usable by individuals with disabilities where such alterations to the path of travel or the bathrooms, telephones, and drinking fountains serving the altered area are not disproportionate to the overall alterations in terms of cost and scope (as determined under criteria established by the Attorney General).

(b) Elevator. Subsection (a) of this section shall not be construed to require the installation of an elevator for facilities that are less than three stories or have less than 3,000 square feet per story unless the building is a shopping center, a shopping mall, or the professional office of a health care provider or unless the Attorney General determines that a particular category of such facilities requires the installation of elevators based on the usage of such facilities.

Sec. 12184. Prohibition of discrimination in specified public transportation services provided by private entities

(a) General rule. No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of specified public transportation services provided by a private entity that is primarily engaged in the business of transporting people and whose operations affect commerce.

(b) Construction. For purposes of subsection (a) of this section, discrimination includes

(1) the imposition or application by an entity described in subsection (a) of eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully enjoying the specified public transportation services provided by the entity, unless such criteria can be shown to be necessary for the provision of the services being offered;

(2) the failure of such entity to

(A) make reasonable modifications consistent with those required under section 12182(b)(2)(A)(ii) of this title;

(B) provide auxiliary aids and services consistent with the requirements of section 12182(b)(2)(A)(iii) of this title; and

(C) remove barriers consistent with the requirements of section 12182(b)(2)(A) of this title

and with the requirements of section 12183(a)(2) of this title;

(3) the purchase or lease by such entity of a new vehicle (other than an automobile, a van with a seating capacity of less than 8 passengers, including the driver, or an over- the-road bus) which is to be used to provide specified public transportation and for which a solicitation is made after the 30th day following the effective date of this section, that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs; except that the new vehicle need not be readily accessible to and usable by such individuals if the new vehicle is to be used solely in a demand responsive system and if the entity can demonstrate that such system, when viewed in its entirety, provides a level of service to such individuals equivalent to the level of service provided to the general public;

(4) (A) the purchase or lease by such entity of an over-the-road bus which does not comply with the regulations issued under section 12186(a)(2) of this title; and

(B) any other failure of such entity to comply with such regulations; and

(5) the purchase or lease by such entity of a new van with a seating capacity of less than 8 passengers, including the driver, which is to be used to provide specified public transportation and for which a solicitation is made after the 30th day following the effective date of this section that is not readily accessible to or usable by individuals with disabilities, including individuals who use wheelchairs; except that the new van need not be readily accessible to and usable by such individuals if the entity can demonstrate that the system for which the van is being purchased or leased, when viewed in its entirety, provides a level of service to such individuals equivalent to the level of service provided to the general public;

(6) the purchase or lease by such entity of a new rail passenger car that is to be used to provide specified public transportation, and for which a solicitation is made later than 30 days after the effective date of this paragraph, that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs; and

(7) the remanufacture by such entity of a rail passenger car that is to be used to provide specified public transportation so as to extend its usable life for 10 years or more, or the purchase or lease by such entity of such a rail car, unless the rail car, to the maximum extent feasible, is made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(c) Historical or antiquated cars

(1) Exception. To the extent that compliance with subsection (a)(2)© or (a)(7)of this section would significantly alter the historic or antiquated character of a historical or antiquated rail passenger car, or a rail station served exclusively by such cars, or would result in violation of any rule, regulation, standard, or order issued by the Secretary of Transportation under the Federal Railroad Safety Act of 1970, such compliance shall not be required.

(2) Definition. As used in this subsection, the term "historical or antiquated rail passenger car" means a rail passenger car

(A) which is not less than 30 years old at the time of its use for transporting individuals;

(B) the manufacturer of which is no longer in the business of manufacturing rail passenger cars; and

(C) which

(i) has a consequential association with events or persons significant to the past; or

(ii) embodies, or is being restored to embody, the distinctive characteristics of a type of rail passenger car used in the past, or to represent a time period which has passed.

Sec. 12185. Study

(a) Purposes. The Office of Technology Assessment shall undertake a study to determine

(1) the access needs of individuals with disabilities to over-the-road buses and over-the- road bus service; and

(2) the most cost-effective methods for providing access to over-the-road buses and over-the-road bus service to individuals with disabilities, particularly individuals who use wheelchairs, through all forms of boarding options.

(b) Contents. The study shall include, at a minimum, an analysis of the following:

(1) The anticipated demand by individuals with disabilities for accessible over-the-road buses and over-the-road bus service.

(2) The degree to which such buses and service, including any service required under sections 12184(a)(4) and 12186(a)(2) of this title, are readily accessible to and usable by individuals with disabilities.

(3) The effectiveness of various methods of providing accessibility to such buses and service to individuals with disabilities.

(4) The cost of providing accessible over-the-road buses and bus service to individuals with disabilities, including consideration of recent technological and cost saving developments in equipment and devices.

(5) Possible design changes in over-the-road buses that could enhance accessibility, including the installation of accessible restrooms which do not result in a loss of seating capacity.

(6) The impact of accessibility requirements on the continuation of over-the-road bus service, with particular consideration of the impact of such requirements on such service to rural communities.

(c) Advisory committee. In conducting the study required by subsection (a) of this section, the Office of Technology Assessment shall establish an advisory committee, which shall consist of

(1) members selected from among private operators and manufacturers of over-the-road buses;

(2) members selected from among individuals with disabilities, particularly individuals who use wheelchairs, who are potential riders of such buses; and

(3) members selected for their technical expertise on issues included in the study, including manufacturers of boarding assistance equipment and devices.

The number of members selected under each of paragraphs (1) and (2) shall be equal, and the total number of members selected under paragraphs (1) and (2) shall exceed the number of members selected under paragraph (3).

(d) Deadline. The study required by subsection (a) of this section, along with recommendations by the Office of Technology Assessment, including any policy options for legislative action, shall

be submitted to the President and Congress within 36 months after July 26, 1990. If the President determines that compliance with the regulations issued pursuant to section 12186(a)(2)(B) of this title on or before the applicable deadlines specified in section 12186(a)(2)(B) of this title will result in a significant reduction in intercity over-the-road bus service, the President shall extend each such deadline by 1 year.

(e) Review. In developing the study required by subsection (a) of this section, the Office of Technology Assessment shall provide a preliminary draft of such study to the Architectural and Transportation Barriers Compliance Board established under section 792 of title 29. The Board shall have an opportunity to comment on such draft study, and any such comments by the Board made in writing within 120 days after the Board's receipt of the draft study shall be incorporated as part of the final study required to be submitted under subsection (d) of this section.

Sec. 12186. Regulations

(a) Transportation provisions

(1) General rule. Not later than 1 year after July 26, 1990, the Secretary of Transportation shall issue regulations in an accessible format to carry out sections12182 (a)(2)(a) and (C) of this title and to carry out section 12184 of this title (other than subsection (a)(4)).

(2) Special rules for providing access to over-the-road buses

(A) Interim requirements

(i) Issuance. Not later than 1 year after July 26, 1990, the Secretary of Transportation shall issue regulations in an accessible format to carry out sections 12184(b)(4) and 12182(b)(2)(D)(ii) of this title that require each private entity which uses an over-the-road bus to provide transportation of individuals to provide accessibility to such bus; except that such regulations shall not require any structural changes in over-the-road buses in order to provide access to individuals who use wheelchairs during the effective period of such regulations and shall not require the purchase of boarding assistance devices to provide access to such individuals.

(ii) Effective period. The regulations issued pursuant to this subparagraph shall be effective until the effective date of the regulations issued under subparagraph (a).

(B) Final requirement

(i) Review of study and interim requirements. The Secretary shall review the study submitted under section 12185 of this title and the regulations issued pursuant to subparagraph (A).

(ii) Issuance. Not later than 1 year after the date of the submission of the study under section 12185 of this title, the Secretary shall issue in an accessible format new regulations to carry out sections 12184(b)(4) and 12182(b)(2)(D)(ii) of this title that require, taking into account the purposes of the study under section 12185 of this title and any recommendations resulting from such study, each private entity which uses an over-the-road bus to provide transportation to individuals to provide accessibility to such bus to individuals with disabilities, including individuals who use wheelchairs.

(iii) Effective period. Subject to section 12185(d) of this title, the regulations issued pursuant to this subparagraph shall take effect

(I) with respect to small providers of transportation (as defined by the Secretary), 3 years after the date of issuance of final regulations under clause (ii); and

(II) with respect to other providers of transportation, 2 years after the date of issuance of such final regulations.

(C) Limitation on requiring installation of accessible restrooms. The regulations issued pursuant to this paragraph shall not require the installation of accessible restrooms in over-the-road buses if such installation would result in a loss of seating capacity.

(3) Standards. The regulations issued pursuant to this subsection shall include standards applicable to facilities and vehicles covered by sections 12182(b) (2) and 12184 of this title.

(b) Other provisions. Not later than 1 year after July 26, 1990, the Attorney General shall issue regulations in an accessible format to carry out the provisions of this subchapter not referred to in subsection (a) of this section that include standards applicable to facilities and vehicles covered under section 12182 of this title.

(c) Consistency with ATBCB guidelines. Standards included in regulations issued under subsections (a) and (b) of this section shall be consistent with the minimum guidelines and requirements issued by the Architectural and Transportation Barriers Compliance Board in accordance with section 12204 of this title.

(d) Interim accessibility standards

(1) Facilities. If final regulations have not been issued pursuant to this section, for new construction or alterations for which a valid and appropriate State or local building permit is obtained prior to the issuance of final regulations under this section, and for which the construction or alteration authorized by such permit begins within one year of the receipt of such permit and is completed under the terms of such permit, compliance with the Uniform Federal Accessibility Standards in effect at the time the building permit is issued shall suffice to satisfy the requirement that facilities be readily accessible to and usable by persons with disabilities as required under section 12183 of this title, except that, if such final regulations have not been issued one year after the Architectural and Transportation Barriers Compliance Board has issued the supplemental minimum guidelines required under section 12204(a) of this title, compliance with such supplemental minimum guidelines shall be necessary to satisfy the requirement that facilities be readily accessible to and usable by persons with disabilities prior to issuance of the final regulations.

(2) Vehicles and rail passenger cars. If final regulations have not been issued pursuant to this section, a private entity shall be considered to have complied with the requirements of this subchapter, if any, that a vehicle or rail passenger car be readily accessible to and usable by individuals with disabilities, if the design for such vehicle or car complies with the laws and regulations (including the Minimum Guidelines and Requirements for Accessible Design and such supplemental minimum guidelines as are issued under section 12204(a) of this title) governing accessibility of such vehicles or cars, to the extent that such laws and regulations are not inconsistent with this subchapter and are in effect at the time such design is substantially completed.

Sec. 12187. Exemptions for private clubs and religious organizations

The provisions of this subchapter shall not apply to private clubs or establishments exempted from coverage under title II of the Civil Rights Act of 1964 (42 U.S.C. 2000-a(e)) or to religious organizations or entities controlled by religious organizations, including places of worship.

Sec. 12188. Enforcement

(a) In general

(1) Availability of remedies and procedures. The remedies and procedures set forth in section 2000a-3(a) of this title are the remedies and procedures this subchapter provides to any person who is being subjected to discrimination on the basis of disability in violation of this subchapter or who has reasonable grounds for believing that such person is about to be subjected to discrimination in violation of section 12183 of this title. Nothing in this section shall require a person with a disability to engage in a futile gesture if such person has actual notice that a person or organization covered by this subchapter does not intend to comply with its provisions.

(2) Injunctive relief. In the case of violations of sections 12182(b)(2)(A)(iv) and Section 12183(a) of this title, injunctive relief shall include an order to alter facilities to make such facilities readily accessible to and usable by individuals with disabilities to the extent required by this subchapter. Where appropriate, injunctive relief shall also include requiring the provision of an auxiliary aid or service, modification of a policy, or provision of alternative methods, to the extent required by this subchapter.

(b) Enforcement by Attorney General

(1) Denial of rights

(A) Duty to investigate

(i) In general. The Attorney General shall investigate alleged violations of this subchapter, and shall undertake periodic reviews of compliance of covered entities under this subchapter.

(ii) Attorney General certification. On the application of a State or local government, the Attorney General may, in consultation with the Architectural and Transportation Barriers Compliance Board, and after prior notice and a public hearing at which persons, including individuals with disabilities, are provided an opportunity to testify against such certification, certify that a State law or local building code or similar ordinance that establishes accessibility requirements meets or exceeds the minimum requirements of this chapter for the accessibility and usability of covered facilities under this subchapter. At any enforcement proceeding under this section, such certification by the Attorney General shall be rebuttable evidence that such State law or local ordinance does meet or exceed the minimum requirements of this chapter.

(B) Potential violation. If the Attorney General has reasonable cause to believe that

(i) any person or group of persons is engaged in a pattern or practice of discrimination under this subchapter; or

(ii) any person or group of persons has been discriminated against under this subchapter and such discrimination raises an issue of general public importance,

the Attorney General may commence a civil action in any appropriate United States district court.

(2) Authority of court. In a civil action under paragraph (1) (B), the court

(A) may grant any equitable relief that such court considers to be appropriate, including, to the extent required by this subchapter

(i) granting temporary, preliminary, or permanent relief;

(ii) providing an auxiliary aid or service, modification of policy, practice, or procedure,

or alternative method; and

(iii) making facilities readily accessible to and usable by individuals with disabilities;

(B) may award such other relief as the court considers to be appropriate, including monetary damages to persons aggrieved when requested by the Attorney General; and

(C) may, to vindicate the public interest, assess a civil penalty against the entity in an amount

(i) not exceeding $50,000 for a first violation; and

(ii) not exceeding $100,000 for any subsequent violation.

(3) Single violation. For purposes of paragraph (2) (C), in determining whether a first or subsequent violation has occurred, a determination in a single action, by judgment or settlement, that the covered entity has engaged in more than one discriminatory act shall be counted as a single violation.

(4) Punitive damages. For purposes of subsection (b) (2) (B) of this section, the term "monetary damages" and "such other relief" does not include punitive damages.

(5) Judicial consideration. In a civil action under paragraph (1)(B), the court, when considering what amount of civil penalty, if any, is appropriate, shall give consideration to any good faith effort or attempt to comply with this chapter by the entity. In evaluating good faith, the court shall consider, among other factors it deems relevant, whether the entity could have reasonably anticipated the need for an appropriate type of auxiliary aid needed to accommodate the unique needs of a particular individual with a disability.

Sec. 12189. Examinations and courses

Any person that offers examinations or courses related to applications, licensing, certification, or credentialing for secondary or postsecondary education, professional, or trade purposes shall offer such examinations or courses in a place and manner accessible to persons with disabilities or offer alternative accessible arrangements for such individuals.

SUBCHAPTER IV - MISCELLANEOUS PROVISIONS

Sec. 12201. Construction

(a) In general. Except as otherwise provided in this chapter, nothing in this chapter shall be construed to apply a lesser standard than the standards applied under title V of the Rehabilitation Act of 1973 (29 U.S.C. 790 et seq.) or the regulations issued by Federal agencies pursuant to such title.

(b) Relationship to other laws. Nothing in this chapter shall be construed to invalidate or limit the remedies, rights, and procedures of any Federal law or law of any State or political subdivision of any State or jurisdiction that provides greater or equal protection for the rights of individuals with disabilities than are afforded by this chapter. Nothing in this chapter shall be construed to preclude the prohibition of, or the imposition of restrictions on, smoking in places of employment covered by subchapter I of this chapter, in transportation covered by subchapter II or III of this chapter, or in places of public accommodation covered by subchapter III of this chapter.

(c) Insurance. Subchapters I through III of this chapter and title IV of this Act shall not be construed to prohibit or restrict

Title 13 of the California Code of Regulations Section 1232

TAB B

Welcome to the online source for the California Code of Regulations

13 CA ADC § 1232
§ 1232. Vehicle Inspection and Maintenance.

13 CCR § 1232

Cal. Admin. Code tit. 13, § 1232

Barclays Official California Code of Regulations Currentness
Title 13. Motor Vehicles
Division 2. Department of the California Highway Patrol
Chapter 6.5. Motor Carrier Safety [FNA1]
Article 6. Carrier Requirements (Refs & Annos)

[FNa1] Formerly Subchapter 6, Article 2 (Sections 1210-1230, not consecutive).

§ 1232. Vehicle Inspection and Maintenance.

The following provisions apply to the inspection and maintenance of vehicles subject to this chapter.

(a) Preventive Maintenance. Motor carriers shall ensure that all vehicles subject to their control, and all required accessories on the vehicles, are regularly and systematically inspected, maintained, and lubricated to ensure they are in safe and proper operating condition. The carriers shall have a means of indicating the types of inspection, maintenance, and lubrication operations to be performed on each vehicle and the date or mileage when these operations are due. The inspection required by this subsection is more in depth than the daily inspection performed by the driver. Motor carriers shall ensure compliance with this subsection when a vehicle is assigned away from the carrier's regular maintenance facility for periods exceeding normal inspection, maintenance, and lubrication intervals.

(b) Periodic Preventive Maintenance Inspection. School bus, SPAB, PAB, and GPPV carriers shall ensure every bus is inspected every 3,000 miles or 45 calendar days, whichever occurs first; or more often if necessary to ensure safe operation. Buses out of service exceeding 45 calendar days need not be inspected at 45-day intervals, provided they are inspected prior to being placed back into service.

This periodic inspection shall at a minimum cover:

(1) Brake adjustment

(2) Brake system leaks

(3) Two-way check valve in dual air systems, alternately draining and recharging primary and secondary air reservoirs

(4) All tank mounting brackets

(5) All belts and hoses for wear

(6) Tires and wheels

(7) Steering and suspension

(c) Oil or Grease Accumulations. Excessive amounts of grease or oil on the vehicle shall be removed and their cause corrected.

(d) Cleanliness of Buses. Every bus shall be kept clean and free of litter.

(e) Inspector Qualifications. Motor carriers shall ensure that individuals performing inspections, maintenance, repairs or service to the brakes or brake systems of vehicles subject to this chapter are qualified in accordance with 49 CFR 396.25 (published October 1, 2006).

Note: Authority cited: Sections 2807.2, 31401, 34501 and 34501.5, Vehicle Code. Reference: Sections 545, 2807.2, 31401, 34501 and 34501.5, Vehicle Code.

HISTORY

1. New subsection (e) filed 9-27-78; designated effective 10-27-78 (Register 78, No. 39).

2. Amendment filed 8-24-79; designated effective 10-1-79 (Register 79, No. 34).

3. Amendment filed 4-2-81; effective thirtieth day thereafter (Register 81, No. 14).

4. Amendment of subsection (b) filed 6-9-82; effective thirtieth day thereafter (Register 82, No. 24).

5. Amendment of subsection (b) filed 5-17-84; effective thirtieth day thereafter (Register 84, No. 20).

6. Amendment of subsection (b) filed 8-16-88; operative 9-15-88 (Register 88, No. 34).

7. New subsection (e) filed 9-21-94; operative 9-21-94 pursuant to Government Code section 11346.2(d) (Register 94, No. 38).

8. Change without regulatory effect amending first paragraph and subsection (e) filed 8-7-95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 32).

9. Amendment of subsection (e) filed 3-31-99; operative 4-30-99 (Register 99, No. 14).

10. Amendment of subsections (b) and (e) filed 4-10-2008; operative 5-10-2008 (Register 2008, No. 15).

11. Amendment of subsection (b) and Note filed 7-6-2011; operative 8-5-2011 (Register 2011, No. 27).

13 CCR § 1232, 13 CA ADC § 1232

This database is current through 3/15/13 Register 2013, No. 11

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Article XII of the California Constitution Sections 4 and 6

TAB C

CALIFORNIA CONSTITUTION
ARTICLE 12 PUBLIC UTILITIES

SECTION 1. The Public Utilities Commission consists of 5 members appointed by the Governor and approved by the Senate, a majority of the membership concurring, for staggered 6-year terms. A vacancy is filled for the remainder of the term. The Legislature may remove a member for incompetence, neglect of duty, or corruption, two thirds of the membership of each house concurring.

CALIFORNIA CONSTITUTION
ARTICLE 12 PUBLIC UTILITIES

SEC. 2. Subject to statute and due process, the commission may establish its own procedures. Any commissioner as designated by the commission may hold a hearing or investigation or issue an order subject to commission approval.

CALIFORNIA CONSTITUTION
ARTICLE 12 PUBLIC UTILITIES

SEC. 3. Private corporations and persons that own, operate, control, or manage a line, plant, or system for the transportation of people or property, the transmission of telephone and telegraph messages, or the production, generation, transmission, or furnishing of heat, light, water, power, storage, or wharfage directly or indirectly to or for the public, and common carriers, are public utilities subject to control by the Legislature. The Legislature may prescribe that additional classes of private corporations or other persons are public utilities.

CALIFORNIA CONSTITUTION
ARTICLE 12 PUBLIC UTILITIES

SEC. 4. The commission may fix rates and establish rules for the transportation of passengers and property by transportation companies, prohibit discrimination, and award reparation for the exaction of unreasonable, excessive, or discriminatory charges. A transportation company may not raise a rate or incidental charge except after a showing to and a decision by the commission that the increase is justified, and this decision shall not be subject to judicial review except as to whether confiscation of property will result.

CALIFORNIA CONSTITUTION
ARTICLE 12 PUBLIC UTILITIES

SEC. 5. The Legislature has plenary power, unlimited by the other provisions of this constitution but consistent with this article, to confer additional authority and jurisdiction upon the commission, to establish the manner and scope of review of commission action in a

court of record, and to enable it to fix just compensation for utility property taken by eminent domain.

CALIFORNIA CONSTITUTION
ARTICLE 12 PUBLIC UTILITIES

SEC. 6. The commission may fix rates, establish rules, examine records, issue subpenas, administer oaths, take testimony, punish for contempt, and prescribe a uniform system of accounts for all public utilities subject to its jurisdiction.

CALIFORNIA CONSTITUTION
ARTICLE 12 PUBLIC UTILITIES

SEC. 7. A transportation company may not grant free passes or discounts to anyone holding an office in this State; and the acceptance of a pass or discount by a public officer, other than a Public Utilities Commissioner, shall work a forfeiture of that office. A Public Utilities Commissioner may not hold an official relation to nor have a financial interest in a person or corporation subject to regulation by the commission.

CALIFORNIA CONSTITUTION
ARTICLE 12 PUBLIC UTILITIES

SEC. 8. A city, county, or other public body may not regulate matters over which the Legislature grants regulatory power to the Commission. This section does not affect power over public utilities relating to the making and enforcement of police, sanitary, and other regulations concerning municipal affairs pursuant to a city charter existing on October 10, 1911, unless that power has been revoked by the city's electors, or the right of any city to grant franchises for public utilities or other businesses on terms, conditions, and in the manner prescribed by law.

CALIFORNIA CONSTITUTION
ARTICLE 12 PUBLIC UTILITIES

SEC. 9. The provisions of this article restate all related provisions of the Constitution in effect immediately prior to the effective date of this amendment and make no substantive change.

California Government Code Section 53075.5

TAB D

California Government Code Section 53075.5

53075.5. (a) Notwithstanding Chapter 8 (commencing with Section 5351) of Division 2 of the Public Utilities Code, every city or county shall protect the public health, safety, and welfare by adopting an ordinance or resolution in regard to taxicab transportation service rendered in vehicles designed for carrying not more than eight persons, excluding the driver, which is operated within the jurisdiction of the city or county.

(b) Each city or county shall provide for, but is not limited to providing for, the following:

(1) A policy for entry into the business of providing taxicab transportation service. The policy shall include, but need not be limited to, all of the following provisions:

(A) Employment, or an offer of employment, as a taxicab driver in the jurisdiction, including compliance with all of the requirementsof the program adopted pursuant to paragraph (3), shall be a condition of issuance of a driver's permit.

(B) The driver's permit shall become void upon termination of employment.

(C) The driver's permit shall state the name of the employer.

(D) The employer shall notify the city or county upon termination of employment.

(E) The driver shall return the permit to the city or county upon termination of employment.

(2) The establishment or registration of rates for the provision of taxicab transportation service.

(3)(A) A mandatory controlled substance and alcohol testing certification program. The program shall include, but need not be limited to, all of the following requirements:

(i) Drivers shall test negative for each of the controlled substances specified in Part 40 (commencing with Section 40.1) of Title 49 of the Code of Federal Regulations, before employment. Drivers shall test negative for these controlled substances and for alcohol as a condition of permit renewal or, if no periodic permit renewals are required, at such other times as the city or county shall designate. As used in this section, a negative test for alcohol means an alcohol screening test showing a breath alcohol concentration of less than 0.02 percent.

(ii) Procedures shall be substantially as in Part 40 (commencing with Section 40.1) of Title 49 of the Code of Federal Regulations, except that the driver shall show a valid California driver's license at the time and place of testing, and except as provided otherwise in this section. Requirements for rehabilitation and for return-to-duty and followup testing and other requirements, except as provided otherwise in this section, shall be substantially as in Part 382 (commencing with Section 382.101) of Title 49 of the Code of Federal Regulations.

(iii) A test in one jurisdiction shall be accepted as meeting the

same requirement in any other jurisdiction. Any negative test resultshall be accepted for one year as meeting a requirement for periodic permit renewal testing or any other periodic testing in that jurisdiction or any other jurisdiction, if the driver has not tested positive subsequent to a negative result. However, an earlier negative result shall not be accepted as meeting the pre-employment testing requirement for any subsequent employment, or any testing requirements under the program other than periodic testing.

(iv) In the case of a self-employed independent driver, the test results shall be reported directly to the city or county, which shall notify the taxicab leasing company of record, if any, of positive results. In all other cases, the results shall be reported directly to the employing transportation operator, who may be required to notify the city or county of positive results.

(v) All test results are confidential and shall not be released without the consent of the driver, except as authorized or required by law.

(vi) Self-employed independent drivers shall be responsible for compliance with, and shall pay all costs of, this program with regard to themselves. Employing transportation operators shall be responsible for compliance with, and shall pay all costs of, this program with respect to their employees and potential employees, except that an operator may require employees who test positive to pay the costs of rehabilitation and of return-to-duty and followup testing.

(vii) Upon the request of a driver applying for a permit, the city or county shall give the driver a list of the consortia certified pursuant to Part 382 (commencing with Section 382.101) of Title 49 of the Code of Federal Regulations that the city or county knows offer tests in or near the jurisdiction.

(b) No evidence derived from a positive test result pursuant to the program shall be admissible in a criminal prosecution concerning unlawful possession, sale or distribution of controlled substances.

(c) Each city or county may levy service charges, fees, or assessments in an amount sufficient to pay for the costs of carrying out an ordinance or resolution adopted in regard to taxicab transportation services pursuant to this section.

(d) Nothing in this section prohibits a city or county from adopting additional requirements for a taxicab to operate in its jurisdiction.

(e) For purposes of this section, "employment" includes self-employment as an independent driver.

California Public Utilities Code Sections 710, 5351, 5352, 5353, 5355.5, 5360, 5360.5, 5381 and 5391

TAB E

710. (a) The commission shall not exercise regulatory jurisdiction or control over Voice over Internet Protocol and Internet Protocol enabled services except as required or expressly delegated by federal law or expressly directed to do so by statute or as set forth in subdivision (c). In the event of a requirement or a delegation referred to above, this section does not expand the commission's jurisdiction beyond the scope of that requirement or delegation.

(b) No department, agency, commission, or political subdivision of the state shall enact, adopt, or enforce any law, rule, regulation, ordinance, standard, order, or other provision having the force or effect of law, that regulates VoIP or other IP enabled service, unless required or expressly delegated by federal law or expressly authorized by statute or pursuant to subdivision (c). In the event of a requirement or a delegation referred to above, this section does not expand the commission's jurisdiction beyond the scope of that requirement or delegation.

(c) This section does not affect or supersede any of the following:

(1) The Emergency Telephone Users Surcharge Law (Part 20 (commencing with Section 41001) of Division 2 of the Revenue and Taxation Code) and the state's universal service programs (Section 285).

(2) The Digital Infrastructure and Video Competition Act of 2006 (Division 2.5 (commencing with Section 5800)) or a franchise granted by a local franchising entity, as those terms are defined in Section 5830.

(3) The commission's authority to implement and enforce Sections 251 and 252 of the federal Communications Act of 1934, as amended (47 U.S.C. Secs. 251 and 252).

(4) The commission's authority to require data and other information pursuant to Section 716.

(5) The commission's authority to address or affect the resolution of disputes regarding intercarrier compensation, including for the exchange of traffic that originated, terminated, or was translated at any point into Internet Protocol format.

(6) The commission's authority to enforce existing requirements regarding backup power systems established in Decision 10-01-026, adopted pursuant to Section 2892.1.

(7) The commission's authority relative to access to support structures, including pole attachments, or to the construction and maintenance of facilities pursuant to commission General Order 95 and General Order 128.

(8) The Warren-911-Emergency Assistance Act (Article 6 (commencing with Section 53100) of Chapter 1.5 of Part 1 of Division 2 of Title 5 of the Government Code).

(d) This section does not affect the enforcement of any state or federal criminal or civil law or any local ordinances of general applicability, including, but not limited to, consumer protection and unfair or deceptive trade practice laws or ordinances, that apply to the conduct of business, the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), local utility user taxes, and state and local authority governing the use and management of the public rights-of-way.

PUBLIC UTILITIES CODE SECTION 5351-5363

5351. This chapter may be cited as the "Passenger Charter-party Carriers' Act."

5352. The use of the public highways for the transportation of passengers for compensation is a business affected with a public interest. It is the purpose of this chapter to preserve for the public full benefit and use of public highways consistent with the needs of commerce without unnecessary congestion or wear and tear upon the highways; to secure to the people adequate and dependable transportation by carriers operating upon the highways; to secure full and unrestricted flow of traffic by motor carriers over the highways which will adequately meet reasonable public demands by providing for the regulation of all transportation agencies with respect to accident indemnity so that adequate and dependable service by all necessary transportation agencies shall be maintained and the full use of the highways preserved to the public; and to promote carrier and public safety through its safety enforcement regulations.

5353. This chapter does not apply to any of the following:

(a) Transportation service rendered wholly within the corporate limits of a single city or city and county and licensed or regulated by ordinance.

(b) Transportation of school pupils conducted by or under contract with the governing board of any school district entered into pursuant to the Education Code.

(c) Common carrier transportation services between fixed termini or over a regular route that are subject to authorization pursuant to Article 2 (commencing with Section 1031) of Chapter 5 of Part 1 of Division 1.

(d) Transportation services occasionally afforded for farm employees moving to and from farms on which employed when the transportation is performed by the employer in an owned or leased vehicle, or by a nonprofit agricultural cooperative association organized and acting within the scope of its powers under Chapter 1 (commencing with Section 54001) of Division 20 of the Food and Agricultural Code, and without any requirement for the payment of compensation therefor by the employees.

(e) Transportation service rendered by a publicly owned transit system.

(f) Passenger vehicles carrying passengers on a noncommercial enterprise basis.

(g) Taxicab transportation service licensed and regulated by a city or county, by ordinance or resolution, rendered in vehicles designed for carrying not more than eight persons excluding the driver.

(h) Transportation of persons between home and work locations or of persons having a common work-related trip purpose in a vehicle having a seating capacity of 15 passengers or less, including the driver, which are used for the purpose of ridesharing, as defined in Section 522 of the Vehicle Code, when the ridesharing is incidental to another purpose of the driver. This exemption also applies to a vehicle having a seating capacity of more than 15 passengers if the driver files with the commission evidence of liability insurance

protection in the same amount and in the same manner as required for a passenger stage corporation, and the vehicle undergoes and passes an annual safety inspection by the Department of the California Highway Patrol. The insurance filing shall be accompanied by a one-time filing fee of seventy-five dollars ($75). This exemption does not apply if the primary purpose for the transportation of those persons is to make a profit. "Profit," as used in this subdivision, does not include the recovery of the actual costs incurred in owning and operating a vanpool vehicle, as defined in Section 668 of the Vehicle Code.

(i) Vehicles used exclusively to provide medical transportation, including vehicles employed to transport developmentally disabled persons for regional centers established pursuant to Chapter 5 (commencing with Section 4620) of Division 4.5 of the Welfare and Institutions Code.

(j) Transportation services rendered solely within the Lake Tahoe Basin, comprising that area included within the Tahoe Regional Planning Compact as set forth in Section 66801 of the Government Code, when the operator of the services has obtained any permit required from the Tahoe Basin Transportation Authority or the City of South Lake Tahoe, or both.

(k) Subject to Section 34507.6 of the Vehicle Code, transportation service provided by the operator of an automobile rental business in vehicles owned or leased by that operator, without charge other than as may be included in the automobile rental charges, to carry its customers to or from its office or facility where rental vehicles are furnished or returned after the rental period.

(l) Subject to Section 34507.6 of the Vehicle Code, transportation service provided by the operator of a hotel, motel, or other place of temporary lodging in vehicles owned or leased by that operator, without charge other than as may be included in the charges for lodging, between the lodging facility and an air, rail, water, or bus passenger terminal or between the lodging facility and any place of entertainment or commercial attraction, including, but not limited to, facilities providing snow skiing. Nothing in this subdivision authorizes the operator of a hotel, motel, or other place of temporary lodging to provide any round trip sightseeing service without a permit, as required by subdivision (c) of Section 5384.

(m) (1) Transportation of hot air balloon ride passengers in a balloon chase vehicle from the balloon landing site back to the original takeoff site, provided that the balloon ride was conducted by a balloonist who meets all of the following conditions:

(A) Does not fly more than a total of 30 passenger rides for compensation annually.

(B) Does not provide any preflight ground transportation services in their vehicles.

(C) In providing return transportation to the launch site from landing does not drive more than 300 miles annually.

(D) Files with the commission an exemption declaration and proof of vehicle insurance, as prescribed by the commission, certifying that the operator qualifies for the exemption and will maintain minimum insurance on each vehicle of one hundred thousand dollars ($100,000) for injury or death of one person, three hundred thousand dollars ($300,000) for injury or death of two or more persons and one hundred thousand dollars ($100,000) for damage to property.

(2) Nothing in this subdivision authorizes the operator of a commercial balloon operation to provide any round trip sightseeing service without a permit, as required by subdivision (c) of Section 5384.

(n) (1) Transportation services incidental to operation of a youth camp that are provided by either a nonprofit organization that qualifies for tax exemption under Section 501(c)(3) of the Internal Revenue Code or an organization that operates an organized camp, as defined in Section 18897 of the Health and Safety Code, serving youth

18 years of age or younger.
(2) Any transportation service described in paragraph (1) shall comply with all of the following requirements:
(A) Register as a private carrier with the commission pursuant to Section 4005.
(B) Participate in a pull notice system for employers of drivers as prescribed in Section 1808.1 of the Vehicle Code.
(C) Ensure compliance with the annual bus terminal inspection required by subdivision (c) of Section 34501 of the Vehicle Code.
(D) Obtain the following minimum amounts of general liability insurance coverage for vehicles that are used to transport youth:
(i) A minimum of five hundred thousand dollars ($500,000) general liability insurance coverage for passenger vehicles designed to carry up to eight passengers. For organized camps, as defined in Section 18897 of the Health and Safety Code, an additional two hundred fifty thousand dollars ($250,000) general umbrella policy that covers vehicles.
(ii) A minimum of one million dollars ($1,000,000) general liability insurance coverage for vehicles designed to carry up to 15 passengers. For organized camps, as defined in Section 18897 of the Health and Safety Code, an additional five hundred thousand dollars ($500,000) general umbrella policy that covers vehicles.
(iii) A minimum of one million five hundred thousand dollars ($1,500,000) general liability insurance coverage for vehicles designed to carry more than 15 passengers, and an additional three million five hundred thousand dollars ($3,500,000) general umbrella liability insurance policy that covers vehicles.

5353.5. On and after July 1, 1989, this chapter does not apply to transportation service, other than transportation service furnished in a limousine for hire, rendered wholly within the corporate limits of a single city or city and county and licensed or regulated by ordinance.

5354. In construing and enforcing the provisions of this chapter relating to the prescribed privileges and obligations of the holder of a permit or certificate issued hereunder, the act, omission, or failure of any officer, agent, or employee, or person offering to afford the authorized service with the approval or consent of the permit or certificate holder, is the act, omission, or failure of the permit or certificate holder.

5355. Unless the context otherwise requires, the definitions and general provisions set forth in this article govern the construction of this chapter.

5355.5. (a) "Chartering party" means the person, corporation, or other entity that prearranges with a charter-party carrier of passengers for transportation services.
(b) "Designee" means a person who is 25 years of age or older and who is designated by the chartering party as being the person responsible for compliance with the requirements of Section 5384.1 during the provision of transportation services whenever persons under 21 years of age are to be transported unaccompanied by a parent or legal guardian. If the chartering party is a person and the minor is not accompanied by a parent or legal guardian, the chartering party shall be the designee unless the chartering party identifies

another person to be the designee and the person so designated acknowledges and agrees that he or she is the designee. If there is more than one chartering party for a joint carriage of passengers, each chartering party shall designate a designee who is responsible for compliance with the requirements of Section 5384.1 whenever persons under 21 years of age are to be transported unaccompanied by a parent or legal guardian, and that person shall be the designee only for those passengers provided with transportation services on behalf of that chartering party.

5356. "Corporation" includes a corporation, a company, an association, and a joint stock association.

5357. "Person" includes an individual, a firm, or a copartnership.

5358. "Public highway" includes every public street, road, or highway in this State.

5359. "Motor vehicle" means a vehicle which is self-propelled.

5360. Subject to the exclusions of Section 5353, "charter-party carrier of passengers" means every person engaged in the transportation of persons by motor vehicle for compensation, whether in common or contract carriage, over any public highway in this state. "Charter-party carrier of passengers" includes any person, corporation, or other entity engaged in the provision of a hired driver service when a rented motor vehicle is being operated by a hired driver.

5360.5. (a) Charter-party carriers of passengers shall operate on a prearranged basis within this state.
(b) For purposes of this section, "prearranged basis" means that the transportation of the prospective passenger was arranged with the carrier by the passenger, or a representative of the passenger, either by written contract or telephone.

5362. With respect to a motor vehicle used in the transportation of persons for compensation by a charter-party carrier of passengers, "owner" means the corporation or person who is registered with the Department of Motor Vehicles as the owner of the vehicle, or who has a legal right to possession of the vehicle pursuant to a lease or rental agreement.

5363. (a) Any provision of the Public Utilities Act (Part 1 (commencing with Section 201) of Division 1) or of this chapter applicable to charter bus transportation that conflicts with the federal Transportation Equity Act for the 21st Century (P.L. 105-178) does not apply to charter bus transportation to the extent of that conflict. If any provision of the Public Utilities Act or of this chapter applicable to charter bus transportation, or the application

thereof to any person or circumstance, is invalid as a result of federal preemption, the remainder of the act, or the application of the provision to other persons or circumstances, shall not be affected thereby.

(b) (1) Except as specified in paragraph (2), as used in this section, "charter bus transportation" means transportation, using a vehicle designed, used, or maintained for carrying more than 10 persons, including the driver, of a group of persons who, pursuant to a common purpose, under a single contract, at a fixed charge for the motor vehicle, have acquired the exclusive use of the motor vehicle to travel together.

(2) If a federal court or agency with the jurisdiction to construe Section 14501(a)(1)(C) of Title 49 of the United States Code determines that additional transportation falls within the meaning of the term "charter bus transportation," as used in that section, the federal construction of that term shall prevail.

Cal. Pub. Util. Code Sections 5381

5381. To the extent that such is not inconsistent with the provisions of this chapter, the commission may supervise and regulate every charter-party carrier of passengers in the State and may do all things, whether specifically designated in this part, or in addition thereto, which are necessary and convenient in the exercise of such power and jurisdiction.

PUBLIC UTILITIES CODE
SECTION 5391-5393

5391. The commission shall, in granting permits or a certificate pursuant to this chapter, require the charter-party carrier of passengers to procure, and to continue in effect during the life of the permit or certificate, adequate protection against liability imposed by law upon the charter-party carrier of passengers for the payment of damages for personal bodily injuries, including death resulting therefrom, protection against a total liability of the charter-party carrier of passengers on account of bodily injuries to, or death of, more than one person as a result of any one accident, and protection against damage or destruction of property. The minimum requirements for such assurances of protection against liability shall not be less than the requirements which are applicable to operations conducted under certificates of public convenience and necessity issued pursuant to the provisions of Article 2 (commencing with Section 1031), Chapter 5, Part 1, Division 1, of this code, and the rules and regulations prescribed pursuant thereto shall apply to charter-party carriers of passengers.

5391.2. Notwithstanding Section 5391, in granting certificates to the holders of class C certificates, the commission shall require that those carriers procure and continue in effect adequate protection against liability imposed by law upon the carrier for the payment of damages for personal bodily injuries, including death resulting therefrom; protection against a total liability of the carrier of passengers on account of bodily injuries to, or death of, more than one person as a result of any one accident; and protection against damage or destruction of property. The requirement of that assurance of protection against liability shall be seven hundred fifty thousand dollars ($750,000) per accident.

5391.5. The commission shall commence a rulemaking proceeding to develop uniform operating standards applicable to charter-party carriers of passengers. The rulemaking proceeding shall include, but shall not be limited to, a consideration of all of the following issues:

(a) Whether current insurance limits provide sufficient liability coverage for charter-party carriers to operate to any point in this state.

(b) Whether the commission's requirements concerning the maintenance of records is sufficient to permit the safe operation of charter-party carriers to any point in this state.

(c) Whether the commission's current procedures for the issuance of operating authority are creating unnecessary congestion upon the roads of this state.

5392. (a) The protection required under Sections 5391 and 5391.2 shall be evidenced by the deposit of any of the following with the commission covering each vehicle used or to be used under the certificate or permit applied for:

(1) A policy of insurance, issued by a company licensed to write insurance in this state, or by nonadmitted insurers subject to

Section 1763 of the Insurance Code, if the policies meet the rules promulgated therefor by the commission.

(2) A bond of a surety company licensed to write surety bonds in the state.

(3) Evidence of the qualification of the charter-party carrier of passengers as a self-insurer as may be authorized by the commission.

(b) This section applies only to the driver supplied by a charter-party carrier of passengers engaged in the provision of a hired driver service when a rented motor vehicle is being operated by the hired driver. The requirements of this section do not apply to the separately rented vehicle.

5392.3. Notwithstanding any other provision of law, any charter-party carrier of passengers that contracts to provide a vanpool vehicle, as described in paragraph (1) of subdivision (c) of Section 17149 of the Revenue and Taxation Code, to an employer or a group of employees for the purpose of operating that vehicle for transportation to and from work shall maintain protection against liability with respect to that vehicle in the same form and amount as described in Section 5391.2.

5392.5. No person, firm, or corporation holding a valid permit issued by the commission pursuant to this chapter shall be required by any agency of local government to provide insurance in a manner different from that required by the commission.

5393. With the consent of the commission a copy of an insurance policy, certified by the company issuing it to be a true copy of the original policy, or a photostatic copy thereof, or an abstract of the provisions of the policy, or a certificate of insurance issued by the company issuing the policy, may be filed with the commission in lieu of the original or a duplicate or counterpart of the policy.

TAB F

TCP and Taxicabs Distinguished

Based on the information above, it may seem that there is little or no difference between a charter-party carrier and a taxicab. In fact, the two are separate and distinct types of transportation. A charter-party carrier may not operate as a taxi, *or advertise* as to indicate that it provides taxicab service. Taxis are licensed and regulated by cities and counties, while charter-party carriers operate under authority from the CPUC, subject to the Public Utilities Code and CPUC regulations. Taxis have meters and top lights; charter-party vehicles do not have either one. The most important operational difference is that TCP transportation must be prearranged. Taxis may provide transportation "at the curb", that is, a customer may "arrange" taxi transportation by simply hailing a cab from the sidewalk. All transportation performed by charter-party carriers must be arranged beforehand, and the driver must have a *completed waybill* in his or her possession at all times during the trip, showing, among other things, the name and address of the person requesting or arranging the transportation (the chartering party), the time and date when the charter was arranged, and whether it was arranged by telephone or written contract, the number of persons in the charter group, the name of at least one passenger, and the points of origin and destination.

Expiration and Renewal

All charter-party permits and certificates expire after 3 years. If the carrier completes and submits a renewal application with enough time for the License Section to process its application, and for the CHP to inspect any buses the carrier operates, the authority will be renewed for another 3 years and there will be no lapse in authority. The expiration date of your authority will appear on the permit or certificate itself. We will send you a renewal application approximately 120 days prior to your expiration date. You are required (by Commission General Order 157-D) to complete and return this to us no less than 3 months prior to expiration. The filing fee for renewal applications is $100 for all types of permits and certificates. General Orders are available on line at www.cpuc.ca.gov/PUC/documents/go.htm.

Applying late for renewal can have severe consequences, starting with the fact that your authority may expire before the renewal process is completed, forcing you to cease operations until your authority is renewed. This is especially common if you operate a bus (see p. 16). Every bus operator must undergo a CHP inspection in order to renew, which can take many weeks. If we receive your renewal application even 2 months or more before expiration, your authority may expire before it is renewed. If the License Section receives your renewal application after your authority has already expired, *even if you mailed it before expiration*, your renewal application will not be accepted, and you must submit a "refile" application. As the table on page 4 shows, the fee for a refile is the same as for a new application: $1,000, or $1,500 for an "A" certificate. **Filing too close to your expiration date can cost you an additional expense of $900 or $1,400, in addition to loss of revenue as a result of the expiration of your operating authority.**

Transferring authorities

The charter-party A, B, and C *certificates* described below may be transferred from one carrier (legal entity) to another for a fee of $300. If, for example, your certificate is issued to you as an individual and you later decide to form a corporation, you may transfer the certificate to your corporation. Also, if you decide to sell your business to another party, your certificate can be transferred to that party. The transferee (the legal entity to which the certificate is transferred) will have a new TCP number. Charter-party *permits* (P, S, and Z) cannot be transferred. For example, if you are an individual permit holder and decide to form a corporation, you would

California Public Utilities Commission
General Orders 115-F and 157-D

TAB G

GENERAL ORDER NO. 115-F
(Supersedes General Order No. 115-E)

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

RULES REQUIRING ALL CHARTER-PARTY CARRIERS OF PASSENGERS SUBJECT TO THE PUBLIC UTILITIES CODE TO PROVIDE AND THEREAFTER CONTINUE IN EFFECT ADEQUATE PROTECTION AGAINST LIABILITY IMPOSED BY LAW UPON SUCH CARRIERS FOR THE PAYMENT OF DAMAGES FOR PERSONAL BODILY INJURIES (INCLUDING DEATH RESULTING THEREFROM) AND DAMAGE TO OR DESTRUCTION OF PROPERTY.

Adopted March 16, 1994, Effective March 16, 1994
(Resolution TL-18617)

(1) Each charter-party carrier of passengers, as defined in the Public Utilities Code, shall provide and thereafter continue in effect, so long as it may engage in conducting such operations, adequate protection against liability imposed by law upon such carriers for the payment of damages for personal bodily injuries (including death resulting therefrom) and for damage to or destruction of property, other than property being transported by such carrier for any shipper or consignee, whether the property of one or more than one claimant, in amounts not less than the amounts set forth in the following schedule:

Vehicle Seating Capacity	*Amount of Coverage*
Any vehicle with a seating capacity of 16 passengers or more	$5,000,000
Any vehicle with a seating capacity of 8 passengers through 15 passengers, inclusive	$1,500,000
Any vehicle with a seating capacity of 7 passengers or less	$750,000
EXCEPT:	
Any vehicle operated under a Class C Certificate as defined by P.U. Code Section 5383	$750,000

(2) The protection herein required shall be provided in one of the following ways:

(a) By a certificate or certificates of public liability insurance and property damage insurance in a form approved by the Commission, issued by a company, or companies, licensed to write such insurance in the State of California, or by non-admitted insurers subject to Section 1763 of the Insurance Code.

(b) By an original bond, or bonds, issued by a surety company, or companies, permitted to write surety bonds in the State of California.

(c) By a certificate of insurance issued by a special lines' surplus line broker licensed as such in this State.

(d) By any other plan of protection for the public approved as hereinafter required.

(e) By a plan of self-insurance approved as hereinafter required.

(f) By a combination of two or more of the foregoing methods.

(3) The certificate of insurance or bond evidencing such protection hereinabove required shall not be cancelable on less than thirty days' written notice to the Public Utilities Commission, such notice to commence to run from the date the notice is actually received at the office of the Commission.

(4) The Commission will give consideration to and may approve the application of a charter-party carrier of passengers to qualify as a self-insurer provided such charter-party carrier of passengers files an application with the Commission supported by a true and accurate statement of its financial condition and other evidence which will establish to the satisfaction of the Commission the ability of such charter-party carrier of passengers to satisfy its obligations for public liability and property damage within the limits hereinabove prescribed, without affecting the stability and permanency of the business of such charter-party carrier of passengers.

(5) The Commission will also consider applications for approval of other securities or agreements of indemnity and may approve any such applications if satisfied that the security or agreement of indemnity offered will afford the security for the protection of the public hereinabove contemplated.

(6) Any charter-party carrier of passengers engaged in interstate or intrastate operations within the State of California, which is and becomes qualified as a self-insurer with the Interstate Commerce Commission promulgated thereunder, shall be exempt, so long as such qualification remains effective, from the foregoing provisions of this General Order. Proof of the existence and continuation of such exempt status shall be filed with the Commission annually. Such proof of such qualification shall be filed in such form and at such times as the Commission may require.

(7) Each charter-party carrier of passengers desiring to become qualified as a self-insurer, or to have orders or certificates issued by the Interstate Commerce Commission authorizing self-insurance accepted by this Commission, or to have other securities or agreements of indemnity accepted in lieu of the bond or insurance hereinabove provided, shall make application therefore to this Commission stating all of the facts which shall be required by the Commission with respect thereto. If such application is approved, such charter-party carrier of passengers, while such order of approval shall remain effective, shall be exempt from furnishing a certificate of insurance or bond hereinabove provided.

(8) Every insurance certificate, surety bond, or equivalent protection to the public shall contain a provision that such certificate, surety bond, or equivalent protection shall remain in full force and effect until cancelled in the manner provided by Section (3) of this General Order.

(9) The cancellation or suspension of a policy of insurance or surety bond or the cancellation, suspension, or surrender of a certificate of self-insurance issued by this Commission or the Interstate Commerce Commission, or the impairment or destruction of any security, or the cancellation or termination of any agreement or indemnity, or the alteration (without first obtaining Commission authorization) of any agreement of indemnity, shall constitute good cause for suspension or revocation of the operating authority of the affected charter-party carrier of passengers. No operation shall be conducted on any highway of the State of California unless a certificate of insurance, certificate of self-insurance coverage, bond, or the other securities or agreements of indemnity hereinabove specified, shall be in effect and on file with the Commission.

Approved and dated at San Francisco, California, this 16th day of March, 1994.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

By NEAL SHULMAN
Executive Director

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General Order 157-D
(Supersedes General Order 157-C)

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

RULES AND REGULATIONS GOVERNING THE OPERATIONS OF CHARTER-PARTY CARRIERS OF PASSENGERS PURSUANT TO CHAPTER 8 OF DIVISION 2 OF THE PUBLIC UTILITIES CODE (BEGINNING WITH SECTION 5351).

Adopted and effective February 24, 2005.
Decision 05-02-033 in R.02-08-002

Amended effective June 21, 2007
Resolution TL-19090

CHARTER-PARTY CARRIERS OF PASSENGERS

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PART 1--GENERAL PROVISIONS

1.01--SHORT TITLE. These rules and regulations shall be known as "General Order Series 157".

1.02--REFERENCES TO STATUTES AND RULES AND REGULATIONS. Whenever reference is made to any portion of any law, such reference shall apply to all amendments and additions heretofore or hereafter made; and whenever reference is made to any portion of these rules and regulations, such reference shall apply to all amendments and additions hereafter made.

1.03--CONSTRUCTION OF SINGULAR AND PLURAL. The singular number includes the plural, and the plural the singular.

1.04--"SHALL" and "MAY". "Shall" is mandatory and "may" is permissive.

1.05--LIABILITY INSURANCE REQUIREMENTS. Every charter-party carrier shall comply with all provisions of General Order Series 115.

1.06--APPLICABILITY OF VEHICLE CODE. Every charter-party carrier and their drivers shall comply with the provisions of the California Vehicle Code.

1.07--COMMISSION MAY ORDER DEVIATIONS. The Commission may authorize deviations from these rules and regulations or prescribe or require the observance of additional or different rules by special order.

1.08--AVAILABILITY OF GENERAL ORDER SERIES 157, VEHICLE CODE AND TITLE 13. Every charter-party carrier shall have a current copy of General Order series 157 and a current copy of the California Vehicle Code and the Motor Carrier Safety Sections (Subchapter 4, Article 12 and 14, and Subchapter 6.5, Articles 1, 3, 6, and 8) of Title 13 of the California Code of Regulations in a place available to all drivers.

PART 2--DEFINITIONS

2.01--"COMMISSION". "Commission" means the Public Utilities Commission of the State of California.

2.02--"CHARTER-PARTY CARRIER OF PASSENGERS", "TCP", "CARRIER". The definition of "charter-party carrier of passengers" shall be that set forth in Sections 5351-5360 of the Public Utilities Code. The initials "TCP" mean "transportation

charter-party". Within this General Order the word "carrier" means charter-party carrier of passengers.

2.03--"CHARTER-PARTY VEHICLE", "VEHICLE". "Charter-party vehicle" is a motor vehicle used in charter-party service. Within this General Order the word "vehicle" means charter-party vehicle.

2.04--"SPECIAL IDENTIFICATION LICENSE PLATE". A "special identification license plate" is a plate issued to a limousine owner or operator by the California Department of Motor Vehicles in accordance with Section 5385.6 of the Public Utilities Code.

2.05--"LIMOUSINE". A "limousine" includes any sedan or sport utility vehicle, of either standard or extended length, with a seating capacity of not more than 10 passengers including the driver, used in the transportation of passengers for hire on a prearranged basis within this state.

2.06--"DRIVER-APPLICANT". A driver-applicant is any applicant for charter-party carrier operating authority who will also be a driver of any vehicle authorized to be operated under the authority.

PART 3--GENERAL REQUIREMENTS AND RESTRICTIONS

3.01--PREARRANGED TRANSPORTATION. Class A and Class B charter-party carriers, as defined in Public Utilities Code Section 5383, and carriers holding permits under Public Utilities Code Section 5384(b) shall provide transportation only on a prearranged basis. The party arranging the transportation shall have exclusive use of the vehicle. The driver shall possess a waybill which includes the following:

1. Name of carrier and TCP number.
2. Vehicle license plate number.
3. Driver's name.
4. Name and address of person requesting or arranging the charter.
5. Time and date when charter was arranged.
6. Whether the transportation was arranged by telephone or written contract.
7. Number of persons in the charter group.
8. Name of at least one passenger in the traveling party, or identifying information of the traveling party's affiliation.
9. Points of origination and destination.

Upon request, the driver shall show the waybill to any Commission or airport enforcement officer, or to any official of a city, county, or city and county authorized to inspect waybills pursuant to Public Utilities Code Section 5371.4(h).

3.02--OPERATIONS AT AIRPORTS. No carrier shall conduct any operations on the property of or into any airport unless such operations are authorized by both this Commission and the airport authority involved. Consistent failure to comply with safety or traffic rules and regulations of an airport authority may result in suspension or revocation of Commission operating authority.

3.03--TAXI TRANSPORTATION SERVICE NOT AUTHORIZED. A carrier is not authorized to engage in taxicab transportation service licensed and regulated by a city or county. Carriers are prohibited from using vehicles which have top lights and/or taxi meters.

3.04--SUB-CARRIERS. A carrier shall not use the services of another carrier (sub-carrier) that provides the vehicle and the driver, unless the second carrier holds Commission authority as a charter-party carrier. The agreement for the utilization of the second carrier's vehicle(s) and driver(s) by the operating carrier shall be evidenced by a written document, and shall contain the carriers' names, TCP numbers, and the services to be provided.

3.05--RENEWAL OF AUTHORITY. Each carrier shall be responsible for filing renewal applications at least three months prior to the expiration date of the certificate or permit.

3.06--FICTITIOUS NAMES. A carrier shall not use any trade, business, or fictitious names which are not on file with the Commission.

3.07--ADVERTISEMENTS SHALL INCLUDE TCP NUMBER OR SPECIAL LICENSE PLATE NUMBER. Carriers shall state the number of their certificate or permit in every written or oral advertisement, broadcast, or other holding out to the public for services, except that every charter-party carrier operating a limousine may instead state its special identification license plate number. The certificate or permit number shall include the prefix "TCP", and the suffix "A", "B", "C", "S", "P", and/or "Z" (Class "A" certificate, Class "B" certificate, Class "C" certificate, round-trip sightseeing permit, charter-party permit, and specialized carrier permit, respectively) which identify the authority or authorities under which transportation service will be provided.

PART 4--VEHICLES

4.01--EQUIPMENT STATEMENT TO BE CURRENT. Every carrier shall maintain, on file with the Commission, an equipment list of all vehicles (owned or leased) in use under each certificate and permit. The information for each vehicle shall include the manufacturer, model year, vehicle identification number (V.I.N.), seating capacity (including driver), description of body type or model designation, whether the vehicle is leased or owned, handicap accessible status, and its license plate number. Additions and deletions to the equipment list shall be filed within ten days of the date the vehicle is put into or pulled out of service.

4.02--SAFETY REQUIREMENTS BEFORE OPERATION. All vehicles operated under each certificate or permit shall comply with the requirements of the California Highway Patrol and the Motor Carrier Safety Sections of Title 13 of the California Code of Regulations. Every carrier must inspect all vehicles and maintain proper documentation of such inspections.

4.03--NAME OF CARRIER AND VEHICLE NUMBER TO BE DISPLAYED ON VEHICLE. A vehicle shall not be operated in service unless there is painted or displayed, on each side of the vehicle, the name or trade name of the carrier. Every carrier shall assign an identifying number to each vehicle. Such number shall be painted on or otherwise permanently attached to the rear and each side of the exterior of each vehicle. The carrier's name and vehicle numbers shall be sufficiently large and color contrasted as to be readable, during daylight hours, at a distance of 50 feet. However, the provisions of this section shall not apply to vehicles temporarily leased by carriers for a period of less than 30 days or to vehicles designed to carry not more than 15 persons, including the driver.

4.04--TCP NUMBER TO BE DISPLAYED ON VEHICLE. The number assigned by the Commission to the carrier's authority shall be shown in full on all charter party vehicles, including the prefix "TCP", the authority number and the authority suffix "A", "B", "C", "S", "P" and/or "Z" (which designate Class "A" certificate, Class "B" certificate, Class "C" certificate, round-trip sightseeing permit, charter-party permit, and specialized carrier permit, respectively). The letter and numeral symbol size and placement shall be as follows:

The identification symbol shall be in sharp color contrast to the background and such size and shape and so located as to be readily legible during daylight hours at a distance of 50 feet. The symbols shall be displayed on each side of the vehicle, EXCEPT vehicles designed to carry not more than 15 persons, including the driver, which shall display the identification symbol on the front and rear bumpers.

The identifying symbol displayed by a carrier subject to the jurisdiction of the Interstate Commerce Commission (ICC) shall serve in lieu of the above requirements, provided such ICC operating authority is registered with this Commission in accordance with the Interstate and Foreign Highway Carrier's Registration Act (commencing with PU Code Section 3901).

4.05--DECALS TO BE DISPLAYED. Vehicles designed to carry not more than 8 persons, including the driver, shall display the Commission-issued decal. Vehicles with seating capacity of 9 to 15 persons, including the driver, may display the Commission-issued decal, which will be issued upon request to the License Section of the Safety and Enforcement Division. Any decals issued by the Commission shall be affixed to the lower right hand corner of the rear bumper of the vehicle.

4.06--SPECIAL IDENTIFICATION LICENSE PLATES FOR LIMOUSINES. Charter-party carriers operating limousines shall display a set of special identification license plates issued by the Department of Motor Vehicles pursuant to Public Utilities Code Section 5385.6. The special identification license plates shall be displayed in lieu of the decal requirements of Part 4.05. Upon cancellation, suspension, or revocation of a charter-party carrier's permit or certificate, the carrier shall immediately remove the special identification license plates and surrender them to the Commission. This Part is effective February 4, 1996.

4.07--DAMAGE TO IDENTIFICATION SYMBOLS. It shall be the carrier's responsibility to make immediate restoration or replacement of any damage caused to the identification names and numbers on vehicles.

4.08--ILLEGAL DISPLAY OF P.U.C. IDENTIFICATION. Immediately upon revocation or termination of any permit or certificate the TCP number for the permit or certificate shall be removed from all vehicles. If new operating authority is later granted, it shall be the responsibility of the carrier to make the appropriate identification.

4.09--UNAUTHORIZED USE OF OPERATING AUTHORITY. A carrier shall not knowingly permit its operating authority, TCP number(s) or special identification license plate(s) to be used by others.

4.10--SALE OR TRANSFER OF VEHICLE. It shall be the carrier's responsibility to remove all certificate or permit numbers, identification symbols, and all special identification license plates when a vehicle is sold or transferred.

PART 5--DRIVERS

5.01--DRIVER TO BE LICENSED. Every driver of a charter-party vehicle shall be licensed as required under the California Vehicle Code and shall comply with the driver provisions of the Motor Carrier Safety Sections of Title 13 of the California Code of Regulations.

5.02--DRIVER RECORD. Every carrier shall enroll in the "Pull Notice Program" of the Department of Motor Vehicles as defined in Vehicle Code Section 1808.1. A charter-party vehicle shall not be operated by any driver who is presumed to be a negligent operator under Vehicle Code Section 12810.5.

5.03--DRIVER STATUS. Every driver of a vehicle shall be the permit/certificate holder or under the complete supervision, direction and control of the operating carrier and shall be:

A. An employee of the permit/certificate holder; or,
B. An employee of a sub-carrier; or,
C. An independent owner-driver who holds charter-party carrier authority and is operating as a sub-carrier.

5.04--ALCOHOLIC BEVERAGES AND DRUGS: USE BY DRIVER FORBIDDEN. All drivers shall comply with the rules in the Code of Federal Regulations Title 49, Parts 392.4 and 392.5. This rule, in part, prohibits drivers from consuming or being under the influence of a drug or alcoholic beverage while on duty, and prohibits carriers from allowing drivers to consume or be under the influence of a drug or alcoholic beverage while on duty.

PART 6--RECORDS AND INSPECTIONS

6.01--CHARTER-PARTY RECORDS. Every carrier shall institute and maintain in its offices, a set of records which reflect information as to the services performed, including

waybills, as described in Section 3.01. Every carrier shall also maintain copies of all lease and sub-carrier agreements, and shall maintain maintenance and safety records (including, but not limited to, the records required in Sections 4.01 and 4.02), driver records (including, but not limited to, the records required in Section 5.02), and consumer complaint records (including, but not limited to, the records required in Section 7.01). Such records shall be maintained for a minimum period of three years.

6.02--INSPECTIONS. The duly authorized representatives of this Commission shall have the right at all times and shall be allowed to enter into any vehicle or facility for the purpose of inspecting the accounts, books, papers, and documents and for ascertaining whether or not these rules are being complied with and observed. Every owner, operator, or driver of any vehicle shall afford the duly authorized representatives of this Commission all reasonable opportunity and facilities to make such an inspection.

PART 7--COMPLAINTS

7.01--CARRIER REQUIRED TO ANSWER COMPLAINTS. Every carrier shall respond within 15 days to any written complaint concerning transportation service provided or arranged by the carrier. A carrier shall, within 15 days, respond to Commission staff inquiries regarding complaints and provide copies of any requested correspondence and records.

PART 8--EXEMPTIONS

8.01--BY WRITTEN REQUEST. If, in a particular case, exemption from any of these rules and regulations is desired, a written request may be made to the Commission for such exemption. Such a request shall be accompanied by a full statement of the conditions existing and the reasons relied on to justify the exemption. It is to be understood that any exemption so granted shall be limited to the particular case covered by the request.

PART 9--TRANSPORTATION BY YOUTH CAMPS

9.01--TRANSPORTATION BY NONPROFIT YOUTH CAMPS. Transportation performed by nonprofit organizations which is incidental to the operation of youth camps is not subject to the Passenger Charter-Party Carriers' Act, Public Utilities (PU) Code Section 5351, et seq., under the exclusion set forth in PU Code Section 5353(f).

9.02--TRANSPORTATION BY FOR-PROFIT YOUTH CAMPS. Transportation performed by for-profit organizations which is incidental to the operation of youth camps is subject to the Passenger Charter-Party Carriers' Act, Public Utilities Code Section 5351, et. seq.

PART 10--CONTROLLED SUBSTANCE AND ALCOHOL TESTING CERTIFICATION PROGRAM

10.01--WHO MUST COMPLY. All charter-party carrier applicants (new and renewal) who propose to employ any driver who will operate a vehicle having a seating capacity of 15 persons or less, including the driver, must provide for a mandatory controlled substance and alcohol testing certification program for those drivers as required by this General Order unless all such drivers are already covered by federal testing regulations. Charter-party carriers who employ any driver who operates a vehicle with a seating capacity of 16 persons or more, including the driver, must comply with the federal regulations concerning controlled substance and alcohol testing for those drivers.

10.02--CONTROLLED SUBSTANCE AND ALCOHOL TESTING PROGRAM REQUIRED. Every applicant who must comply with this General Order shall provide for a testing program as required in Parts 40 and 382 of Title 49 of the Code of Federal Regulations (CFR), except as modified herein.

For the purposes of this Commission's program vehicles with a seating capacity of 15 persons or less, including the driver, shall be considered commercial vehicles. This affects, for example, the determination of what are "safety sensitive functions" for purposes of this Commission's program.

A negative test for alcohol shall show a breath alcohol concentration of less than 0.02 percent and drivers must show a valid California driver's license at the time and place of testing.

Every such applicant must conduct pre-employment testing (Part 382.301), post accident testing (Part 382.303), random testing (Part 382.305), testing due to reasonable suspicion (Part 382.307), followup testing (Part 382.311), and return-to-duty testing (Part 382.309), except that pre-employment testing for alcohol is not required.

Each such applicant must provide educational materials (Part 382.601) that explain the requirements of Part 382 of Title 49 of the CFR and this General Order as well as the employer's policies and procedures with respect to meeting the testing requirements.

Such applicants must advise employees (Part 382.605) of the resources available to them to resolve problems associated with the misuse of alcohol and use of controlled substances.

Such applicants must ensure that supervisors undergo the appropriate training to determine whether reasonable suspicion exists to require a driver to undergo testing (Part 382.603).

Such applicants must use a custody and control form that is substantially similar to, but distinct from, the "Federal Drug Testing Custody and Control Form" and the "DOT Breath Alcohol Testing Form" to identify employees who are being tested and to request specific kinds of tests (49 CFR Parts 40.23 and 40.59).

10.03--REQUIREMENTS FOR PRE-EMPLOYMENT TESTING. An earlier negative result for a driver shall not be accepted as meeting the pre-employment testing requirement for any subsequent employment, or any testing requirements under the program other than periodic testing. (Any negative test result shall be accepted for one year as meeting any requirement for periodic testing if the driver has not tested positive subsequent to a negative result.)

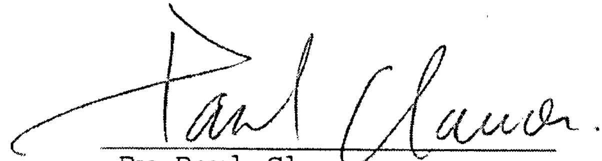
10.04--TESTING COSTS. Applicants shall be responsible for being in compliance with the testing program and shall pay all costs of the testing program, except that an employer may require employees who test positive to pay the costs of rehabilitation and return-to-duty and followup testing.

10.05--CONFIDENTIALITY OF TESTS. All test results are confidential and may not be released without the consent of the driver, except as authorized or required by law. 49 CFR Parts 40.35, 40.81, 382.405 and 382.413 detail rules concerning disclosure and confidentiality of employee test records. The results of tests required under the Commission's testing program may be released under the same circumstances as those detailed in 49 CFR Parts 40 and 382. The Commission may require laboratories to make copies of test results available to it on request. No evidence from a positive test shall be admissible in a criminal prosecution concerning unlawful possession, sale or distribution of controlled substances.

10.06--DRIVER-APPLICANT TEST RESULTS TO BE REPORTED TO THE COMMISSION. Test results for applicants who are also drivers must be reported directly to the Commission consistent with the requirements of 49 CFR Part 382.407. Therefore, a driver-applicant applying for new operating authority must cause a copy of its pre-employment controlled substance test results to be sent directly to the Commission by the attending medical review officer or by the administrator of the consortium in which the driver-applicant is enrolled. A driver-applicant applying for renewal of operating authority must cause a copy of its most recent controlled substance and alcohol test results to be sent directly to the Commission by the attending medical review officer or by the administrator of the consortium in which the driver-applicant is enrolled.

Approved and dated June 21, 2007, at San Francisco, California.

PUBLIC UTILITIES COMMISSION
STATE OF CALIFORNIA



By Paul Clanon
Executive Director

California Vehicle Code Section 1808.1

TAB H

Cal. Veh. Code Section 1808.1

(a) The prospective employer of a driver who drives a vehicle specified in subdivision (k) shall obtain a report showing the driver's current public record as recorded by the department. For purposes of this subdivision, a report is current if it was issued less than 30 days prior to the date the employer employs the driver. The report shall be reviewed, signed, and dated by the employer and maintained at the employer's place of business until receipt of the pull-notice system report pursuant to subdivisions (b) and (c). These reports shall be presented upon request to an authorized representative of the Department of the California Highway Patrol during regular business hours.

(b) The employer of a driver who drives a vehicle specified in subdivision (k) shall participate in a pull-notice system, which is a process for the purpose of providing the employer with a report showing the driver's current public record as recorded by the department, and any subsequent convictions, failures to appear, accidents, driver's license suspensions, driver's license revocations, or any other actions taken against the driving privilege or certificate, added to the driver's record while the employer's notification request remains valid and uncanceled. As used in this section, participation in the pull-notice system means obtaining a requester code and enrolling all employed drivers who drive a vehicle specified in subdivision (k) under that requester code.

(c) The employer of a driver of a vehicle specified in subdivision (k) shall, additionally, obtain a periodic report from the department at least every 12 months. The employer shall verify that each employee's driver's license has not been suspended or revoked, the employee's traffic violation point count, and whether the employee has been convicted of a violation of Section 23152 or 23153. The report shall be signed and dated by the employer and maintained at the employer's principal place of business. The report shall be presented upon demand to an authorized representative of the Department of the California Highway Patrol during regular business hours.

(d) Upon the termination of a driver's employment, the employer shall notify the department to discontinue the driver's enrollment in the pull-notice system.

(e) For the purposes of the pull-notice system and periodic report process required by subdivisions (b) and (c), an owner, other than an owner-operator as defined in Section 34624, and an employer who drives a vehicle described in subdivision (k) shall be enrolled as if he or she were an employee. A family member and a volunteer driver who drives a vehicle described in subdivision (k) shall also be enrolled as if he or she were an employee.

(f) An employer who, after receiving a driving record pursuant to this section, employs or continues to employ as a driver a person against whom a disqualifying action has been taken regarding his or her driving privilege or required driver's certificate, is guilty of a public offense, and upon conviction thereof, shall be punished by confinement in a county jail for not more than six months, by a fine of not more than one thousand dollars ($1,000), or by both that confinement and fine.

(g) As part of its inspection of bus maintenance facilities and terminals required at least once every 13 months pursuant to subdivision (c) of Section 34501, the Department of the California Highway Patrol shall determine whether each transit operator, as defined in Section 99210 of the Public Utilities Code, is then in compliance with this section and Section 12804.6, and shall certify each operator found to be in compliance. Funds shall not be allocated pursuant to Chapter 4 (commencing with Section 99200) of Part 11 of Division 10 of the Public Utilities Code to a transit operator that the Department of the California Highway Patrol has not certified pursuant to this section.

(h)(1) A request to participate in the pull-notice system established by this section shall be accompanied by a fee determined by the department to be sufficient to defray the entire actual cost to the department for the notification service. For the receipt of subsequent reports, the employer shall also be charged a fee established by the department pursuant to Section 1811. An employer who qualifies pursuant to Section 1812 shall be exempt from any fee required pursuant to this section. Failure to pay the fee shall result in automatic cancellation of the employer's participation in the notification services.

(2) A regularly organized fire department, having official recognition of the city, county, city and county, or district in which the department is located, shall participate in the pull-notice program and shall not be subject to the fee established pursuant to this subdivision.

(3) The Board of Pilot Commissioners for Monterey Bay and the Bays of San Francisco, San Pablo, and Suisun, and its port agent shall participate in the pull-notice system established by this section, subject to Section 1178.5 of the Harbors and Navigation Code, and shall not be subject to the fees established pursuant to this subdivision.

(i) The department, as soon as feasible, may establish an automatic procedure to provide the periodic reports to an employer by mail or via an electronic delivery method, as required by subdivision (c), on a regular basis without the need for individual requests.

(j)(1) The employer of a driver who is employed as a casual driver is not required to enter that driver's name in the pull-notice system, as otherwise required by subdivision (a). However, the employer of a casual driver shall be in possession of a report of the driver's current public record as recorded by the department, prior to allowing a casual driver to drive a vehicle specified in subdivision (k). A report is current if it was issued less than six months prior to the date the employer employs the driver.

(2) For the purposes of this subdivision, a driver is employed as a casual driver when the employer has employed the driver less than 30 days during the preceding six months. "Casual driver" does not include a driver who operates a vehicle that requires a passenger transportation endorsement.

(k) This section applies to a vehicle for the operation of which the driver is required to have a class A or class B driver's license, a class C license with a hazardous materials endorsement, a class C license issued pursuant to Section 12814.7, or a certificate issued pursuant to Section 12517, 12519, 12520, 12523, 12523.5, or 12527, or a passenger vehicle having a seating capacity of not more than 10 persons, including the driver, operated for compensation by a charter-party carrier of passengers or passenger stage corporation pursuant to a certificate of public convenience and necessity or a permit issued by the Public Utilities Commission.

(l) This section shall not be construed to change the definition of "employer," "employee," or "independent contractor" for any purpose.

(m) A motor carrier who contracts with a person to drive a vehicle described in subdivision (k) that is owned by, or leased to, that motor carrier, shall be subject to subdivisions (a), (b), (c), (d), (f), (j), (k), and (l) and the employer obligations in those subdivisions.

(n) Reports issued pursuant to this section, but only those for a driver of a taxicab engaged in transportation services as described in subdivision (a) of Section 53075.5 of the Government Code, shall be presented upon request, during regular business hours, to an

authorized representative of the administrative agency responsible for issuing permits to taxicab transportation services pursuant to Section 53075.5 of the Government Code.

San Francisco Business & Tax Regulations Code Sections 6.2-12 and 853

TAB I

S.F. Business & Tax Regulations Code Section 6.2-12

(a) The taxes imposed by Article 12-A (Payroll Expense Tax Ordinance) and the registration fee imposed by Article 12 (Business Registration Ordinance) shall apply to any person engaging in business within the City unless exempted therefrom under such Articles. A person is "engaging in business within the City," within the meaning of this Article, if that person meets one or more of the following conditions:

(1) The person maintains a fixed place of business within the City; or

(2) An employee, representative or agent of the person maintains a fixed place of business within the City for the benefit or partial benefit of the person; or

(3) The person or one or more of the person's employees, representatives or agents owns, rents, leases, or hires real or personal property within the City for business purposes for the benefit or partial benefit of the person; or

(4) The person or one or more of the person's employees, representatives or agents regularly maintains a stock of tangible personal property within the City, for sale in the ordinary course of the person's business; or

(5) The person or one or more of the person's employees, representatives or agents employs or loans capital on property within the City for the benefit or partial benefit of the person; or

(6) The person or one or more of the person's employees, representatives or agents solicits business within the City for all or part of any seven days during a tax year; or

(7) The person or one or more of the person's employees, representatives or agents performs work or renders services within the City for all or part of any seven days during a tax year; or

(8) The person or one or more of the person's employees, representatives or agents utilizes the streets within the City in connection with the operation of motor vehicles for business purposes for all or part of any seven days during a tax year; or

(9) The person or one or more of the person's employees, representatives or agents exercises corporate or franchise powers within the City for the benefit or partial benefit of the person; or

(10) The person or one or more of the person's employees, representatives or agents liquidates a business when the liquidators thereof hold themselves out to the public as conducting such business.

SAN FRANCISCO BUSINESS & TAX REGULATIONS CODE
SECTION 853. REGISTRATION CERTIFICATE – REQUIRED.

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

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

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

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

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

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

(3) one residential condominium.

San Francisco International Airport Rules and Regulations
Rules 3.3(E), 4.7(A) and 4.7(D)

TAB J

San Francisco International Airport

Airport Commission

City and
County of
San Francisco

Edwin M. Lee
Mayor

Commissioners:

Larry Mazzola
President

Linda S. Crayton
Vice President

Eleanor Johns

Richard J. Guggenhime

Peter A. Stern

John L. Martin
Director

Rules and Regulations

San Francisco International Airport

Adopted: November 2009

(Includes Amendments through August 28, 2012)

Issued by: The Airport Commission

City and County of San Francisco

RULE 3.0

GENERAL

Written operating procedures issued by the Director shall be considered as addenda to these Rules and Regulations.

3.1 AIR AND GROUND TRAFFIC RULES

(A) All applicable Federal and State laws and regulations and the laws and regulations of any other legal authority having jurisdiction, as now in effect or as they may from time to time be amended, are hereby incorporated as part of these Rules and Regulations as though fully set forth herein.

(B) Permits issued by the Airport are the property of the Airport and are subject to revocation by the Director.

3.2 EMERGENCIES

(A) When the Director determines that an emergency affecting the health, welfare and/or safety of persons and/or property exists at the Airport, the Director shall be empowered to take that action which, within the Director's discretion and judgment, is necessary or desirable to protect persons and property and to facilitate the operation of the Airport.

(B) During such an emergency the Director may suspend these Rules and Regulations, or any part thereof, and the Director may in addition issue such orders, rules and regulations as may be necessary.

(C) The Director shall at all times have authority to take such reasonable action as may be necessary for the proper conduct and management of the Airport and the public.

3.3 GENERAL CONDUCT

(A) Litter and Refuse

No person shall place, discharge, or deposit in any manner, papers, trash, rubbish, food wastes or other refuse anywhere on the Airport, except in Airport-approved receptacles and other such places prescribed by the Director. All litter and refuse must be covered when transported in vehicles, and all receptacles for said materials must have covers. Stored or transported litter or garbage must be in tied plastic bags. Trash bags shall not be left unattended on jet bridges or any portion of the ramp surface.

(B) Recycling

(1) Disposing of Recycled Trash

When trash is collected from the Airport facilities, it is expected that it be disposed of in the appropriate separated recycle container located in each of the designated trash disposal areas.

All separated recycled trash must be disposed of in the appropriate recycle bin (food waste, general garbage, bottles and cans or

newspaper/paper) in the designated trash areas. All tenants of the Airport are prohibited from disposing of separated recycled items into any trash compactor, or general trash bin. All tenants are responsible for ensuring appropriate compliance with the policy and violators of this policy are subject to admonishment.

(2) Tenant Recycling

Tenants are encouraged to implement recycled trash programs in their exclusive areas, and where such programs exist, proper disposal is required.

(C) Dogs and Other Animals

No person shall enter a terminal building with any animal, except certified service animals, unless the animal is properly confined or ready for shipment. Animals are permitted in other areas of the Airport if on a leash or restrained in such manner as to be under control.

(D) Restricted Areas

No person shall enter any restricted area posted by the Director as closed to the public, except persons assigned to duty therein or authorized by the Director, and who are in possession of a proper permit.

(E) Commercial Activities

No person shall enter or remain on Airport property and buy, sell, peddle or offer for sale or purchase any goods, merchandise, property or services of any kind whatsoever, on or from Airport property, without the express written consent of the Director or the Director's duly authorized representative.

(F) Advertisements

Except as otherwise allowed under Section 13 of the Rules and Regulations, no person shall post, distribute, or display signs, advertisements, circulars, printed or written matter at the Airport, without the express written consent of the Director and in such manner as the Director may prescribe.

(G) Commercial Photography

No person, except representatives of the news media on duty or during official assignments, shall take still, motion, television, or sound pictures for commercial purposes on the Airport without the express written consent of the Director.

(H) Lost and Found Articles

Any person finding lost articles shall submit them to the Police. Any lost articles abandoned within the passenger security checkpoints will be turned over to the Transportation Security Administration personnel.

(I) Damage to Airport Property

No person shall destroy or cause to be destroyed, injure, damage, deface, or disturb in any way, property of any nature located on the Airport, nor willfully abandon any personal property on the Airport. Any person causing or

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4.7 COURTESY VEHICLES, LIMOUSINES, BUSES, CHARTER VANS AND TAXICABS

Limousines or buses under written contract with the Airport Commission to provide ground transportation to, from or on the Airport, shall be in possession of a current Charter Party permit or Passenger Stage Permit (Certificate of Public Convenience) issued by the State of California Public Utilities Commission.

(A) Commercial Operators of Ground Transportation Services

(1) Applicability

Section 4.7(A) applies to every person, corporation, partnership, association or consortium that operates a ground transportation service using the roadways of the Airport as part of a business conducted for monetary consideration. Those to whom this section applies are referred to herein as "commercial operators of ground transportation services."

(2) Permits Required

No commercial operator of ground transportation services shall operate or cause to be operated any vehicle to provide ground transportation services using the roadways of the Airport unless the operation of such vehicles is currently authorized pursuant to: (a) a valid certificate or permit issued by the Public Utilities Commission of the State of California and (b) a COMMERCIAL GROUND TRANSPORTATION OPERATING PERMIT issued by the Airport Director, with the exception of: (1) public agencies; (2) airline vendors in providing ground transportation services under contract to airlines for flight crews; (3) taxicabs; and (4) the operators of any commercial ground transportation service pursuant to a contract with the City and County of San Francisco. The Airport Director is authorized to issue COMMERCIAL GROUND TRANSPORTATION OPERATING PERMITS to all those required by this section to obtain such permits. Among those required to obtain such permits, the Airport Director is authorized to define categories of operators not allowed to use the lower level roadways on the Airport and to issue to such operators a "COMMERCIAL GROUND TRANSPORTATION OPERATING PERMIT: UPPER LEVEL ONLY." The Airport Director is also authorized to define categories of carriers who are allowed to use the lower level roadways. The Airport Director is also authorized to designate those operators who are only allowed to serve the Rental Car Center and are not allowed to use the terminal roadways and to issue such operators a "COMMERCIAL GROUND TRANSPORTATION OPERATING PERMIT: RENTAL CAR CENTER ONLY." The Airport Director is also authorized to define categories of carriers who are allowed to use the lower level roadways. The Airport Director will determine which type of permit will be issued to each operator, depending upon the permittee's operations, and may change the type of permit required where operating conditions have changed.

Revocation of the COMMERCIAL GROUND TRANSPORTATION OPERATING PERMIT of any individual ground transportation operator may be appealed to the Airport Commission. Such appeal may be

initiated by filing a written request for appeal with the Airport Commission Secretary within ten (10) days of permittee's receipt of notice of revocation. Permittee's request shall specifically state the grounds upon which the appeal is based.

(a) All commercial operators of ground transportation services are required to have the authorization of the State of California Public Utilities Commission (CPUC) and the Airport Director to conduct operations on Airport property.

(i) Scheduled Transportation Operations

The Airport Director will review the merit of any proposed operation for scheduled service based upon the following criteria: (1) determination of the potential ridership and farebox recovery; (2) evaluation of the planned route, the location, and number of all proposed bus routes; (3) analysis of the service travel time; (4) determination of the type or size of vehicle appropriate for the operation; (5) examination of existing Airport transit services; and (6) determination of availability of Airport curb and staging space. The Director has the right to approve, reject or require modification to any such proposed service.

(ii) In addition, any proposed changes in service by commercial ground transportation operators which: (1) seeks to increase the number of vehicles authorized to be operated at the Airport or (2) seeks to alter the frequency of operation of such vehicles or (3) involves a deviation from an Airport approved schedule for operation of such vehicles, shall be first submitted to the Airport in writing no less than thirty (30) days in advance of the proposed implementation date. The Airport Director has the right to approve, reject, or require modification to any such proposed changes.

(b) Any permittee found violating any Airport Rule and Regulation or Airport permit condition may have its permit suspended or revoked by the Airport Director.

(3) Registration of Vehicles

Each holder of a COMMERCIAL GROUND TRANSPORTATION OPERATING PERMIT: (a) shall register with the Airport Director each vehicle to be used pursuant to the permit, (b) shall cause all such vehicles to possess a common color scheme and markings so as to be readily identifiable as belonging to the permittee, (c) shall cause each such vehicle to bear a valid identification emblem, as well as an electronic Automatic Vehicle Identification and counting device issued by the Airport Director. The permittee shall not in any way modify its vehicles or otherwise tamper with, alter, damage, or destroy the Automated Vehicle Identification and counting device so as to intentionally disable the device, and (d) shall register with the Airport Director a registration number of each vehicle, and shall display the vehicle registration number of a minimum size as required by the Airport Director.

Each vehicle operated by a permittee shall be operated with either a valid state or provincial commercial vehicle license plate, or an Airport-issued Temporary Identification Plate (TIP) until such time that the vehicle has a valid state or provincial commercial vehicle license plate which is on file with the Airport.

(4) Vehicle Descriptions

Each Commercial Operator of Ground Transportation Services except limousine permittees and Airport-approved sport utility vehicles of standard or extended length, and/or Airport-approved vans equipped with aftermarket accessories to provide luxury appointments similar to those found in luxury limousines to be operated under their Airport limousine permit, whether or not required to obtain a COMMERCIAL GROUND TRANSPORTATION OPERATING PERMIT, shall file with the Airport Director a photograph adequate to identify the color scheme and markings common to operator's vehicles and distinguish them visually from vehicles used by another operator. The operator's name and telephone number must be at least 2.25 inches high and be in sharp contrast to the vehicle body color. Magnetic signs are prohibited unless specifically approved in writing by the Airport Director prior to use.

If permittee currently operates a fleet possessing more than one color scheme or set of markings, then permittee shall request in writing an exception to the common color rule from the Airport Director. Permittee shall file with its exception request a description of the schemes and markings for which exception is requested. The Airport Director expressly reserves the right to approve or reject any exception requests at his sole discretion.

In no event shall any vehicle be operated unless its color scheme and marking conforms to the common color scheme approved by the Airport Director or an exception by the Airport Director is granted. Further, in no event shall exceptions exceed a period of one (1) year and, upon the expiration of such exception, permittee's fleet must comply with the common color scheme rule herein.

(5) Monthly Fee Amounts

The monthly fee for each holder of a Commercial Ground Transportation Operating Permit shall be determined by the number of vehicle trips, as defined in Sections 4.7(B)(1)(j) and 4.7(C)(2) of these Rules and Regulations. The Airport Director may impose a trip surcharge or other penalty if an operator fails to meet transportation or other related goals established by Commission.

(6) Payment of Monthly Fees

The Airport Director is authorized to assess and collect fees based upon the permittee's electronically recorded monthly vehicle trips, calculated according to the schedule in Sections 4.7(B)(1)(j) and 4.7(C)(2).

Airport Director is also authorized to assess and collect the pre-payment of fees. Actual trip fees shall be deducted from the pre-payment fee

collected and calculated according to the schedules in Sections 4.7(B)(1)(j) and 4.7(C)(2).

Airport Director may also assess fees for lost or missing transponders and operating decals.

The Airport Director is authorized to charge and collect interest on unpaid fees at the rate of one and one-half percent (1-1/2%) per month.

(7) Maintenance and Inspection of Permittee's Records; Sample Vehicle Trip Counts

(a) The Airport Director is authorized to examine, and each permittee shall make available to the Airport Director, its books and records, including, without limitation, such reports, records, and compilations as may be identified in the Commercial Ground Transportation Operating Permit.

(b) The Airport Director is also authorized to install an Automatic Vehicle Identification and counting device, or to conduct vehicle trip counts, and to rely on such counts as an audit measure for testing the accuracy of any permittee's report of vehicle trips.

To assist in the auditing of permittee's trip counts, permittee shall affix or install an automatic vehicle identification and counting device, and any decal or sticker in such manner as the Airport Director may determine.

To assist in the auditing of permittee's trip counts, permittee shall affix or install any decal, sticker or device in such a manner as Airport Director may determine.

(c) Should any examination of records or vehicle trip count disclose an underpayment by permittee in excess of five percent (5%) of the fees due, the permittee shall promptly pay to the City and County of San Francisco the amount of the underpayment plus all costs incurred in conducting the examination or vehicle trip count. The permittee shall also be liable for expenses incurred in assessing or collecting any money owed to the City and County of San Francisco.

(8) Waybills

Every charter and pre-arranged transit passenger pick up and drop off shall be documented by a waybill prepared in advance. Waybills shall be prepared by the permittee or the driver of permittee's vehicle prior to the vehicle's arrival at the Airport's passenger pickup or drop off zone. The waybill shall state the name of the carrier and their charter party certificate (TCP) number, the vehicle license plate, the name and address of the person requesting the charter, the date and time the charter was arranged, the driver's name, the passenger's name(s), the number of persons in the party, the location of the pick up, the time of the scheduled pick up or drop off, and the airline and flight number on which the passenger has arrived or will depart and the points of origin and destination.

All transportation operators who use the Airport's courtyards for picking up patrons must display a copy of their waybill inside the vehicle so it can be easily read from outside of the front windshield. Another copy of the waybill shall be carried by the driver of the vehicle.

The driver of the permittee's vehicle is required to present the waybill to any Airport official who requests to inspect it. The driver of the permittee's vehicle may prepare the waybill based on radio or telephone communications to the driver.

(9) Curb Locations

Permittees are required to pick up and discharge passengers only at the curb locations designated as follows:

(a) Courtesy Vehicles

Drivers of courtesy vehicles shall load and unload passengers only in those areas designated by the Airport Director.

(b) Charter Vehicles with Lower Level Permit

Permittees with lower level charter permits may load passengers and their baggage in the terminal courtyards. No charter vehicles shall be parked in the terminal courtyards or authorized staging areas for a period in excess of the posted time limits. Charter vehicles may discharge passengers only in those areas designated by the Airport Director. Other charter vehicles seating less than six passengers, excluding the driver, that are less than 6'6" in height shall park and board passengers in the Airport's garage.

(c) Scheduled Transit Vehicles

Scheduled transit operators with lower level permits shall pick up or drop off only in those areas designated by the Airport Director. Only one pass through the terminal loading zones is allowed per scheduled departure. Operators must be in the loading zones only at their scheduled departure time, as approved by the California Public Utilities Commission and the Airport Director. While waiting between scheduled arrivals and departures, vehicles must be parked in the designated staging areas authorized by the Airport Director.

(d) Operators with Upper Level Only Permits

(i) Operators with upper level only permits shall load and unload passengers only at those areas designated by the Airport Director. All operations, including Shared Ride Van Services and scheduled services, must be conducted from the designed zones.

Operators with upper-level only permits will be allowed to pick up charter passengers in the lower level courtyards, provided that they possess a charter waybill as required under Section 4.7(A)(8) of the Rules and Regulations.

(ii) Permittees offering both scheduled and Shared Ride Van Services may obtain different permits to operate the two different services. The failure of any permittee to operate consistently with the headways established by the Airport Director shall subject the permittee to a fine of up to $250.00 for each violation.

(iii) If the designated loading zones on the upper level for operators with upper level-only permits are dedicated to specific carriers for the pick up of passengers, no carrier shall stop, wait, or pick up customers at any other zone. Signs designating each carrier's stop will be posted at the designated zone.

(iv) Permittees offering Shared Ride Van Service and authorized to pick up passengers on the upper level shall only be allowed to operate vans that seat between six to eleven passengers, excluding the driver.

Permittees are required to participate in a curb and staging lot coordination program. No vans shall wait or park in the van zone unless a coordinator is present, and drivers are required to have a zone access ticket to utilize the zones during hours of coordination. Drivers must remain in their vehicle unless loading or unloading passengers or luggage.

(e) Reserved for future use.

(f) Pre-arranged Lower Level Transit Service Operators

Permittees shall load passengers only in specifically designated areas in the terminal courtyards with a copy of the valid waybill openly displayed on the windshield as provided in Section 4.7(A)(8). No vehicles shall be parked in areas designated by the Airport Director for a period in excess of posted time limits. Vehicles may discharge passengers only at areas designated by the Airport Director for a period not in excess of posted time limits.

(10) Headways

In addition to the provisions of Section 4.7(C)(1) of the Rules and Regulations, the Airport Director shall have the authority to establish minimum times allowed between vehicle trips ("headways") for each category of commercial ground transportation carrier. The minimum headways shall be based on the Airport Director's assessment of the capacity and usage of the Airport's roadways, as well as the quality of transportation service provided to passengers. The failure of any permittee to operate consistently within the headways established by the Airport Director shall subject the permittee to a fine of up to $250.00 for each violation.

(11) Courtyard Parking and Staging Area

The Airport Director is authorized to establish and construct staging areas for commercial vehicles providing ground transportation services. The Airport Director is further authorized to require that all drivers of commercial ground transportation vehicles, who are waiting to pick up passengers, must park their vehicles in the staging areas designated by the Director. The Airport Director may charge a fee for use of any such staging areas. When staging space is not available, the Airport Director may require vehicles to stage off the Airport.

All commercial vehicles shall be parked only in areas specifically designated for that type of vehicle. No parking in restricted areas is allowed.

No commercial vehicles shall be parked in any staging areas for a period in excess of the posted time limits except as provided under special contract or permit.

Parking for commercial vehicles providing ground transportation services is available in the courtyards adjacent to the terminal buildings on the lower level and in designated staging areas for designated operators.

(a) The Airport Director is authorized to assess an administrative fine of $500 for each littering incident in addition to any additional fines pursuant to Section 14 of the Airport's Rules and Regulations and all applicable State and Federal laws.

(b) The Airport Director is authorized to assess an administrative fine of $500 for each urinating incident in addition to any additional fines pursuant to Section 14 of the Airport's Rules and Regulations and all applicable State laws.

(c) The Airport Director is authorized to assess an administrative fine of $500 for each incident involving an operator, including their employees, subcontractors and agents, intentionally feeding, approaching, disturbing, frightening, hunting, trapping, capturing, wounding, killing or disturbing any wild bird, mammal, reptile, fish, amphibian or invertebrate within the Airport. This administrative fine is in addition to any additional fines pursuant to Section 14 of the Airport Rules and Regulations and all applicable State and Federal laws.

(d) The Airport Director is authorized to assess an administrative fine of $500.00 for each smoking incident in addition to any additional fines pursuant to Section 14 of the Airport's Rules and Regulations and all applicable State laws.

(12) Inspection of Vehicles

(a) "Inspection" shall mean a visual and physical inspection of a vehicle to verify that tires, headlights, taillights, glass, windshield wipers, interior conditions, exterior conditions, brakes, and other such items as determined by the Director are properly functioning. The emission control device shall be certified as working properly by a station approved by the State of California.

(b) Inspection of Vehicles with 10 Seats or Less

Annually, on a date designated by the Airport Director, each holder of a COMMERCIAL GROUND TRANSPORTATION OPERATING PERMIT, except limousine permittees, must provide the Airport Director with documentation that all vehicles with ten (10) seats or less operated by the Permittee on Airport property, have been inspected within the past ninety (90) days by the Airport. A vehicle with ten (10) seats or less can be immediately pulled out of service if the vehicle is not in a safe operating condition as required under the California Vehicle Code. The Airport Director may assess vehicle inspection fees for any vehicles required by the Airport's Rules and Regulations to be inspected by the Airport. If a vehicle fails to pass the initial inspection for safety reasons, or if an operator fails to keep an inspection appointment, the operator will be required to pay the reasonable cost of providing the service to the Airport for each additional inspection scheduled.

Limousine permittees may be inspected on an annual basis. However, all sport utility vehicles of standard or extended length, and/or vans equipped with aftermarket accessories to provide luxury appointments similar to those found in luxury limousines approved by the Airport to be operated under an Airport limousine permit shall be inspected on an annual basis on a date designated by the Airport Director.

When 20% or more of an operator's fleet fails to pass the Airport's initial inspection due to the unsafe condition of these vehicles, that operator's Airport permit may be suspended for a period up to thirty (30) days, as specified by the Airport Director.

(c) Inspection of Vehicles with 10 or More Passenger Seats

Annually, on a date designated by the Airport Director, each holder of a COMMERCIAL GROUND TRANSPORTATION OPERATING PERMIT with ten (10) or more passenger seats, must provide the Airport Director with documentation that the permittee has passed an annual Terminal Inspection by the California Highway Patrol in order to obtain a current Airport decal.

Failure to provide such documentation shall result in suspension of an operator's Airport permit.

A vehicle with ten (10) or more passenger seats can be immediately pulled out of service if the vehicle is not in a safe operating condition as required under the California Vehicle Code.

(d) Operators are required to maintain the exterior of their vehicles in good condition. Exterior body damage must be repaired in order to continue operating at the Airport.

Operators shall be required to verify completion of repairs by reinspection of a vehicle by the Airport. Operators shall have thirty (30) days to repair "minor" damage. Vehicles with "moderate" or "major" body damage shall not be allowed to operate on the Airport until such damage is repaired. The

vehicle's transponder and decal may be removed by the Airport where "moderate" or "major" body damage has been sustained.

"Minor" damage shall mean slight damage such as small dents, cracked glass, etc.

"Moderate" damage shall mean more than slight, but damage to one-fourth or less of the vehicle; for example, an entire fender, grill, quarter panel, door, hood, rear deck, etc.

"Major" damage shall mean damage to more than one-fourth of the vehicle; such as, entire side, rear end, etc.

(e) Operators using clean fuel vehicles shall maintain their vehicles including the fueling system, engine and drivetrain in good working order at all times. Altering a clean fuel vehicle to allow it to be operated as a conventional diesel fuel or gasoline-powered vehicle, or substituting conventional diesel fuel or gasoline for an alternative fuel approved by the Airport Director is prohibited. The fueling and related systems of all clean fuel vehicles shall be inspected by the Airport annually in order to obtain a valid Airport decal.

(13) Passenger Receipts

All scheduled, Shared Ride Van Service, and pre-arranged transit operators must have passenger receipts in all of their vehicles which are imprinted with the company's name, address, telephone number, and PSC number. The receipt will provide space for the driver's name, date and time of service, and the fare charged.

(14) Complaint Cards

All scheduled, Shared Ride Van Service, and pre-arranged transit operators must have in all of their vehicles compliment/complaint cards that include the operator's name, address and telephone number and provide space for a vehicle number, date, time, customer comments, customer's name, address and phone number. The cards must be placed within reach of all passengers seated inside the vehicle.

(15) Driver Photo Identification Cards

All drivers of scheduled, Shared Ride Van Service, and pre-arranged transit operators must wear a visible photo identification card issued by the company that includes the company name, the company's PSC or TCP certificate number, a color photograph of the employee, and the employee's name.

(16) Tampering with Airport Operating Decals and/or AVI Transponders

All ground transportation operators are prohibited from tampering with an Airport Operating Decal and/or AVI transponder mounted on a vehicle. Any operator found tampering with an Airport Operating Decal and/or AVI transponder shall have their Airport Operating Permit suspended or revoked by the Airport Director.

(17) Administrative Sanctions and Fines

All ground transportation permittees not adhering to the Airport's procedures shall be subject to both administrative sanctions and administrative fines as set forth in the Permit by the Airport Director, as well as fines as set forth in Section 14 of the Rules and Regulations.

(e) The Airport Director will devise a reasonable, objective method of review to ascertain any such ground transportation operator's headways from time to time. Such method of review will reasonably take into account peak traffic times, holiday periods and the like.

(2) Trip Fee For Courtesy Vehicles And Commercial Ground Transportation Permittees (Excluding Limousines):

A trip fee shall be paid to the Airport for vehicles owned and operated by Commercial Ground Transportation and Courtesy Operator Permittees unless otherwise exempted by the Airport Commission. Trip fees shall be set by the Airport Commission. The trip fees shall be charged for each trip in each month.

The Airport Director may impose a trip surcharge or other penalty if an operator fails or other transportation-related goals established by Commission.

Operators may be required by the Airport Director to pay trip fees in advance. An annual registration fee will be charged as determined by the Airport Director.

Each off-Airport rental car company that utilizes Airport facilities, including the Airport roadways, terminals, the Rental Car Facility, and other structures and services, shall pay to the Airport, a trip fee and an annual registration fee as determined by the Airport Director, in addition to a monthly privilege fee based upon revenues as set by the Airport Commission.

(D) Taxicabs

(1) Definitions
Whenever used in Section 4.7, the following terms shall have the meanings set forth below.

(a) **"Taxicab"** shall mean a motor-propelled passenger-carrying vehicle of a distinctive color or colors of an appearance customary for taxicabs in the United States operated at rates per mile or upon a waiting time basis or both, equipped with a taxi meter, and used for the transportation of passengers for hire over and upon the public streets and highways, not over a defined route but in accordance with and under the direction of the person hiring such vehicle as to the route and destination. Taxicabs exclusively powered by electric, natural gas or other alternative fuels to either diesel fuel or gasoline as approved by the Airport Director shall be considered clean fuel vehicles.

(b) **"Taxi Meter"** shall mean an instrument or device in working order attached to a taxicab by means of which the charge authorized for the hire of such taxicab is mechanically calculated either on a basis of distance traveled or for waiting time or a combination thereof, which charges are indicated upon such instrument or device by means of figures in dollars and cents.

(c) **"Taxi Stand"** shall mean a location at San Francisco International Airport designated by the Airport Director for the use of taxicabs while waiting to be hired.

(d) **"Taxicab Lot"** shall mean an area designated by the Airport Director where taxicabs stage prior to moving to taxi stand.

(e) **"Taxicab Line"** shall mean the line of taxicabs in a taxicab lot or at a taxicab stand.

(f) **"Certified for Airport Service"** shall mean that a taxicab as defined herein has met the requirements as contained herein, including but not limited to an annual inspection, and is certified to operate as a taxicab along and upon the roadways at San Francisco International Airport.

(g) **"Certification Decal"** shall mean the sticker issued by San Francisco International Airport to a taxicab which is certified for Airport service.

(h) **"Inspection"** shall mean a visual and physical inspection of a taxicab with an Airport operating permit as defined in Section 4.7(A)(12)(a) and 4.7(A)(12)(b).

(i) **"Jumping a Taxicab Lot"** shall mean driving a taxicab without passengers onto the lower terminal roadway or waiting in any passenger loading zone in the terminal area without first having entered the taxicab lot, paying the taxicab trip fee as designated by the Airport Director, and obtaining a taxicab pass when required, during taxicab lot operating hours.

(j) **"Taxicab Pass"** shall mean a card in the form specified by the Airport Director issued to the driver of a taxicab within or upon leaving the taxicab lot.

(k) Reserved for future use.

(l) **"Municipal Transportation Agency Hearing"** shall mean a proceeding before the San Francisco Municipal Transportation Agency ("MTA"), initiated for the purpose of determining whether the certification issued by the Airport Commission to operate a public vehicle for hire at the Airport should be revoked or suspended.

(i) Violation of any provisions of Section 4.0 of these Rules and Regulations may result in a MTA Hearing and the imposition of penalties as follows:

a. First Violation: Suspension of certification permit for a period of seven (7) days.

b. Second Violation: Suspension of certification permit for a period of fourteen (l4) days.

c. Third Violation: Revocation of certification permit.

(ii) a. A taxi driver shall have the right to appeal any suspension or revocation of his or her certification permit.

b. All such appeals shall be heard by the MTA. Hearings shall be held at a convenient place as designated by the MTA. The taxi driver involved shall be given three (3) days prior written notice of the time and place of the hearing.

c. At the hearing, relevant and material testimony and evidence shall be received and considered by the MTA. All witnesses shall be subject to cross-examination.

d. At the conclusion of the presentation of testimony and evidence, the MTA may affirm, modify or set aside the suspension or revocation. The decision of the MTA shall be final.

(m) **"San Francisco Taxicab"** shall mean a taxicab as defined herein whose operation is regulated by the City and County of San Francisco.

(n) **"Taxicab Smart Card"** shall mean an electronic card issued by the Airport permitting taxicab drivers to enter and exit the Airport's taxicab staging and dispatching facilities.

(o) **"Taxicab Smart Card System"** shall mean the automated system that the taxicab drivers interact with using their Taxicab Smart Cards and that automates taxicab operations and trip fee payments at the Airport.

(2) All taxicab drivers shall comply with the provisions of Section 4.0 of these Rules and Regulations at all times when operating on or at the Airport. Taxicab drivers failing to comply with Section 4.0 may be fined under Section 14.0 of these Rules and Regulations or may have restrictions imposed pursuant to the Taxi Curbside Management Program Operations Procedure Manual.

(3) While operating on or at the Airport, each San Francisco taxicab shall have affixed to the right and left rear rooftop quarter section a certification decal and an operating electronic Automatic Vehicle Identification and counting device issued by the Airport affixed to the taxicab's rooftop. Said decal and Automatic Vehicle Identification and counting device shall remain the property of the Airport and upon suspension or revocation of certification shall be immediately surrendered to the Director.

(a) The Director is authorized to issue certification decals to taxicabs which:

(i) Meet the inspection requirements set forth in Section 4.7(D)(1)(h).

(ii) Have a State of California Department of Transportation Weights and Measures seal affixed to the taxi meter.

(iii) Have automobile liability insurance coverage in the limits required for taxicabs by City and County of San Francisco.

(iv) Have an operating electronic Automatic Vehicle Identification and counting device issued by the Airport. The taxicab operator or driver shall not modify its vehicles or otherwise tamper with, alter, damage, or destroy the Automated Vehicle Identification and counting device so as to intentionally disable the device.

(b) If at any time a taxicab fails to satisfy any of the requirements set forth in this subparagraph (a) its certification shall be suspended until such time as it satisfies such requirements.

(c) Taxicabs so certified by San Francisco International Airport shall be subject to routine visual inspection by the Police as to the condition of the headlights, taillights, tires, glass, windshield wipers and other inspection items covered in Section 4.7(D)(1)(h).

(d) The Airport Director may assess taxicab inspection fees. If a vehicle fails the initial inspection for safety reasons, or if a taxicab operator fails to keep an inspection appointment, the taxicab operator will be required to pay the reasonable cost of providing the service to the Airport for each additional inspection scheduled.

(4) While operating on or at San Francisco International Airport, each driver of a taxicab shall have in his possession the following:

(a) A valid A-card issued by the San Francisco Municipal Transportation Agency (San Francisco taxicabs only);

(b) A valid taxicab badge issued by the San Francisco Municipal Transportation Agency (San Francisco taxicabs only). The badge must be worn on the driver's outside garment.

(c) A valid driver's license issued by the State of California;

(d) A valid and accurate waybill for the taxicab which he or she is operating. The waybill shall contain the following: driver name, driver identification number, taxicab number, medallion number, vehicle license number, date, beginning time, the origin and destination for each trip, the charges for each trip, and the time of hire and discharge for each trip. The driver must record all trips to and from San Francisco International Airport at the time of transport;

(e) A valid, current taxicab pass, when required by current operational policies, (for passenger pick ups during taxicab lot operating hours);

(f) A valid certification decal issued by San Francisco International Airport affixed to the taxicab right and left rear rooftop quarter section (San Francisco taxicabs only).

In addition, a valid taxicab medallion issued by the San Francisco Municipal Transportation Agency or its designee shall be displayed in San Francisco taxicabs as required by the City and County of San Francisco.

(g) Current detailed street map(s) of San Francisco and San Mateo Counties or a functional GPS device.

(h) 311 Notice must be placed within sight of a customer seated in the rear of the vehicle;

(i) A photographic identification card with the driver's name, valid badge number and the taxicab company's name mounted in the vehicle and clearly visible to a passenger seated in the rear of the vehicle;

(j) A valid vehicle registration issued by the State of California;

(k) A valid and accurate schedule of rates permanently affixed to the interior of the taxicab;

(l) A supply of receipts that meet the San Francisco Municipal Transportation Agency minimum standard to issue to passengers that provide space for the date, amount of fare paid, the driver's name, the name of the taxicab company, and the vehicle number;

(m) A valid Taxicab Smart Card issued by the Airport and registered to the particular driver to enter and exit the Airport's taxicab dispatching lots (San Francisco taxicabs only);

(n) A manual credit card transaction device and forms, as long as required the SFMTA;

(o) Current hardcopy of the San Francisco Municipal Transportation Agency Taxicab regulations, when in print by the SFMTA and available to taxicab drivers.;

(p) Working flashlight and ballpoint pens with black or blue ink;

(q) San Francisco Paratransit manual trip ticket forms.

(5) Each driver of a taxicab, upon demand by an officer of the Police Department or a representative of the Airport Director, including employees of the Airport's Curbside Management Program and Airport's Parking Management Program, shall present for inspection each of the items specified in paragraph (4) above.

(6) The following conduct by taxicab drivers is prohibited:

(a) Refusing to convey a passenger at a taxi stand to the destination he or she requests;

(b) Possession of any of the items specified in Section 4.7(D)(4) in an altered or fictitious form;

(c) Leaving a taxicab unattended on a taxicab stand or while it is one of the first ten (10) taxicabs in any taxicab line;

(d) Failing to reset the taxi meter upon completion of each separate fare;

(e) Failing to use the most direct route on any trip, unless otherwise specifically requested by the passenger;

(f) Refusing to transport any passenger's luggage, possessions, or wheelchair which can be accommodated in passenger, driver or trunk compartments of the taxicab;

(g) Failing to have a taxi meter in working order;

(h) Refusing to comply with the lawful directions of Airport Officials including Police, Curbside Management Program personnel and the Airport's designated garage managers, leads, and guards.

(i) Refusing to convey a passenger who wants to pay their fare using a credit card or refusing to accept a credit card to pay a fare.

(j) Failing to comply with the Airport's Taxicab Smart Card System rules as established and amended by the Airport Director.

(7) All taxicabs operating at San Francisco International Airport shall have automobile liability insurance coverage in the limits required for taxicabs by the City and County of San Francisco. Proof of such coverage must be submitted to the San Francisco Airport Commission and/or its agents. The Airport Commission shall be notified immediately of any change, cancellation or modification of such coverage.

(8) (a) Every taxicab driver shall make a visible check of the interior and trunk of the taxicab at the conclusion of each trip to determine if any property has been left behind by the previous passenger.

(b) Drivers of public passenger vehicles for hire shall promptly report to the Police within 24 hours all property found in their vehicles.

(9) Taxicab Loading and Unloading

All taxicabs shall load and unload passengers only in those areas designated by the Director.

(10) Passenger pick up by taxicabs licensed by a jurisdiction other than the City and County of San Francisco is allowed only under the following conditions:

(a) The pick up is pre-arranged with the passenger(s);

(b) The taxicab driver is in possession of a passenger waybill containing the passenger's name, the number of passengers in the party, the location of the pick-up, and the scheduled time of pick up.

(11) Trip Fees

Trip fees for Airport-authorized taxicabs shall be set by the Airport Commission.

The Airport Director may impose a trip surcharge or other penalty if an operator fails to meet transportation-related goals established by Commission.

(E) Conduct on Airport Roadways

The provisions of Section 4.7 of these Rules and Regulations shall apply and, in addition, the following activities by all Commercial Operators of Ground Transportation services, including limousines and sedans, are prohibited, and shall subject the permittee or operator to penalties as specified in Section 14 of these Rules and Regulations:

(1) Jumping a taxicab lot or bypassing a holding lot or ticket collection area before leaving the Airport;

(2) Picking up or discharging passengers or their baggage at any terminal level other than those designated for such purpose;

(3) Leaving the vehicle unattended, except in designated staging areas;

(4) Failing to give, upon a passenger's request, an accurate receipt showing the date, the amount of fare paid, the driver's correct name, the name of the permittee or taxicab company, and the vehicle number, if any;

(5) Failing to maintain the interior and exterior of the vehicle in a clean condition;

(6) Littering of the staging area;

(7) Providing false information to Airport Officials including Police, Curbside Management Program personnel, and the Airport's designated garage managers, leads, and guards;

(8) The switching or altering of garage spitter tickets or any tickets issued by the Airport;

(9) Displaying to an Airport Official a waybill in an altered or fictitious form;

(10) Driving in a vehicle that does not bear a valid identification sticker and automatic vehicle identification and counting device (AVI transponder) issued by the Airport;

(11) Solicitation of passengers on Airport property; except as otherwise provided by contract or permit with the Airport;

(12) Recirculating on the upper level roadway;

(13) The use or possession of any alcoholic beverage while operating a vehicle on the Airport;

(14) Failing to operate a vehicle in a safe manner as required by the California Vehicle Code;

(15) Failing to comply with posted speed limits and traffic control signs;

(16) Use of profane or vulgar language directed to or at the public, or Airport Officials, including the Police, Curbside Management Program personnel, and the Airport's designated garage managers, leads, and guards;

(17) Any attempt to solicit payment in excess of that authorized by law;

(18) Any solicitation for or on behalf of any hotel, motel, club or nightclub;

(19) Any solicitation of any activity prohibited by the Penal Code of the State of California;

(20) Failing to maintain a neat personal appearance as determined by the dress code set forth in Regulations governing taxicabs by the San Francisco Municipal Transportation Agency;

(21) Operating a vehicle which is not in a safe mechanical condition or which lacks mandatory safety equipment as defined in the California Vehicle Code;

(22) Disconnecting any pollution control equipment;

(23) Use or possession of any dangerous drug or narcotic while operating a vehicle on Airport property;

(24) Double parking;

(25) Collecting fares in a loading or unloading zone;

(26) Ground transportation solicitation shall mean engaging in any conduct or activity intended to or apparently intended to ask, implore or persuade a passenger to alter his or her previously chosen mode of ground transportation or specific ground transportation operator, except as otherwise provided by contract or permit with the Airport.

(27) Loading or unloading customers at any zone not designated for that purpose;

(28) Commercial vehicles providing ground transportation services shall have a visible destination sign displayed on the front or sides of each vehicle;

(29) Parked vehicle that does not bear a valid identification sticker and automatic vehicle identification and counting device (AVI transponder) issued by the Airport;

(30) Operating on the Airport a vehicle which has not passed the Airport's annual inspection or reinspection as required in Section 4.7(A)(12) is prohibited;

(31) Use of the Airport's white loading zones by an auto rental firm to pick up or drop off customers in rental vehicles is prohibited unless the customer is physically handicapped;

(32) Urinating in any area of the Airport other than a toilet in a portable or permanent restroom;

(33) Intentionally feeding, approaching, disturbing, frightening, hunting, trapping, capturing, wounding, killing or disturbing any wild bird, mammal, reptile, fish, amphibian or invertebrate within the Airport;

(34) Tampering with or altering a clean fuel vehicle to allow it to be operated as a conventional diesel fuel or gasoline-powered vehicle is prohibited;

(35) Substituting conventional diesel fuel or gasoline for an alternative fuel approved by the Airport Director on a clean fuel vehicle is prohibited.

4.8 VEHICLE AND DRIVER REGULATIONS ON SECURED AREA/AIR OPERATIONS AREA (AOA) OR AS AIRPORT PERMITTEE

(A) Drivers

(1) No vehicle shall be operated on the Secured Area/Air Operations Area unless:

The driver thereof is licensed to operate such vehicle by the Department of Motor Vehicles of the State of California. The driver's license required under this section shall be the same as required by the Department of Motor Vehicles on any public road or highway.

In addition, such driver must successfully pass a written test on Airfield Driving Rules and be licensed by the Airport to operate a vehicle on the Secured Area/Air Operations Area.

DR	–	Vehicle Driver
TF	–	Towing/Fueling Operator
TG	–	Driver/Tow Operator
FL	–	Fueling Operator

Tenants who perform fueling services must have an approved FAA training program for their employees. Employees who perform fueling services must receive a certificate from the Security Access Office.

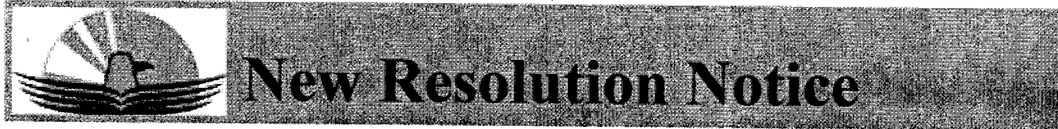
(2) No person operating or driving a vehicle upon the aircraft ramp shall drive at speed greater than ten (10) miles per hour (5 mph within baggage make up area), or at such a rate of speed as to endanger any aircraft, vehicle, or personnel. Factors including, but not limited to, weather and visibility shall be taken into consideration when determining safe operating speed.

(3) No vehicle shall pass between an aircraft and passenger terminal or passenger walkway when the aircraft is parked at a gate position, except those vehicles servicing the aircraft. No vehicle shall enter the envelope of an aircraft-occupied gate. All other vehicles must drive around the aircraft away from the passenger loading gates and walkway.

San Francisco Transportation Code Sections 1108 and 1113

TAB K

SEC. 1108. CONDITIONS APPLICABLE TO DRIVER PERMITS.



Publisher's Note: This section has been **AMENDED** by a new resolution (SFMTA Bd. Res. No. 13-033, adopted 3/19/2013, effective 4/19/2013). The text of the amendment will be incorporated below when the new resolution is effective.

(a) **Driver Identification.** Upon issuance of a Driver Permit, the SFMTA will issue to each Driver the following identification:

(1) **Driver Permit Card (A-Card).** Every Driver shall carry his or her A-Card at all times while operating a Motor Vehicle for Hire, and shall provide the A-Card for inspection upon request by the SFMTA or any peace officer.

(2) **Badge with the Permit Number.** Every Driver shall display a SFMTA-issued badge constantly and conspicuously displayed on the outside of the Driver's clothing and jacket at all times while operating or in possession of a Taxi or Ramp Taxi. The badge shall only be worn by the Driver to whom the badge is issued.

(3) **Color Scheme Identification Card.** A Driver's Color Scheme Identification Card, which must bear a photograph of the Driver, must be displayed conspicuously at all times in any Motor Vehicle for Hire that the Driver is operating in a manner that the badge number printed on the card is easily visible to any passenger in the vehicle.

(b) **Controlled Substances.**

(1) No Driver may operate a Motor Vehicle for Hire while his or her driving ability is impaired by any controlled substance, including prescription drugs. No Driver may consume or be under the influence of any intoxicating substance while operating a Motor Vehicle for Hire.

(2) Drivers shall maintain a drug and alcohol-free workplace and shall not sell, use, or possess alcohol or controlled substances while operating a Motor Vehicle for Hire or at the Color Scheme's place of business.

(c) **Notification to SFMTA of Change of Affiliation with Color Scheme.**

(1) All Drivers must notify the SFMTA at least three business days prior to the effective date of any change of affiliation with a Color Scheme. No Driver may affiliate with a Color Scheme that is on Administrative Probation pursuant to Section 1122.

(2) In accordance with California Government Code Section

53075.5(b)(1)(B), a Driver's Permit shall be suspended for any period during which the Driver is not affiliated with a Color Scheme.

(d) **Driver Duties at Beginning of Shift.**

(1) A Driver is required to perform a safety check on a Motor Vehicle for Hire prior to placing it in operation. The Driver is responsible for ensuring that all equipment on the vehicle that is required by this Article is working properly, including but not limited to a Ramp Taxi ramp and securement system.

(2) A Driver is required to perform a communications test at the commencement of each shift to determine that there is functional communications equipment capable of both receiving and transmitting voice information. If communications equipment is not functional, that vehicle shall be taken out of service until such time as the communications equipment is functional.

(3) A Driver is responsible for ensuring that their vehicle is supplied with the following items:

(A) 311 card;

(B) Current copy of book of regulations issued by SFMTA;

(C) A supply of receipts, preprinted with the name of the affiliated Color Scheme; and

(D) Current maps of San Francisco and San Mateo counties or a functional GPS device;

(E) Working flashlight, if driving at night;

(F) Working ballpoint pen and notebook;

(G) SF Paratransit manual trip ticket forms;

(H) Back-up credit card payment processing device and any supplies required for its operation.

(4) A Driver shall ensure that the vehicle is clean inside and out and free of offensive odors, wash the exterior of the vehicle and/or sweep the interior passenger compartment and trunk as needed, and remove any loose items from the vehicle's dashboard and/or rear shelf.

(e) **Driver Duties During Shift.**

(1) A Driver shall not refuse, or direct or permit the refusal, of prospective passengers in any place within the City for transportation to any other place in the City, or to or from the San Francisco International Airport, or to the Oakland International Airport, or

paratransit passengers within the Paratransit Program service area, at rates authorized by law, if the prospective passengers present themselves for transportation in a clean, coherent, safe and orderly manner and for a lawful purpose and the Driver has sufficient time before the end of his or her shift.

(2) A Driver shall not refuse to transport a passenger's luggage, wheelchair or other mobility device, crutches or other property that can be transported within the confines of the vehicle's trunk and/or passenger areas. A Driver may refuse to convey a passenger who requests taxi service for the primary purpose of transporting goods or cargo if in the Driver's judgment the amount of goods to be carried could result in unsafe driving or damage to the vehicle.

(3) No Driver may refuse to transport a person with a physical disability in the front seat to accommodate the person's physical disability.

(4) A Driver shall not refuse to transport any service animal, or a secured, well-behaved and/or contained animal except when the Driver has documentation from a licensed physician of a medical condition that prevents contact with that type of animal on file with the SFMTA.

(5) A Driver shall, if requested, take reasonable measures to assist a passenger as necessary to get into and out of the vehicle, or to load or unload luggage, only to the extent that such assistance is within the physical capacity of the Driver. The Driver shall record the request for assistance and results. If the Driver feels that his or her personal health or safety is at risk or is otherwise unable to assist the passenger, the Driver shall request appropriate assistance capable of handling the request from the Dispatch Service. If the passenger(s) has such a large amount of baggage, luggage, packages and/or equipment to be loaded or unloaded that the Driver's departure is delayed, or when it is necessary to wait for dispatched assistance to arrive, the Driver shall inform the passenger(s) of his or her intention to activate the Taximeter.

(6) Every Driver shall, if requested, assist a person with physical disabilities or an elderly person to get into and out of the vehicle and ensure the passenger is properly secured in the vehicle prior to transport. If a Driver is unable to properly assist and/or secure the passenger, the Driver shall notify the Dispatch Service and request another Driver's assistance or other appropriate service capable of handling the request. The Driver shall record the request and results. The Driver shall remain with the passenger until assistance from another Driver or appropriate service has arrived.

(7) Every Driver must accept dispatch assignments when available from their Dispatch Service. Drivers must immediately notify their Dispatch Service if they are unable to service an accepted call.

(8) A passenger who first engages a Motor Vehicle for Hire has the exclusive right to conveyance therein to his or her destination. The Driver shall not solicit or accept any additional passenger without the prior consent of any passenger who has previously engaged the

vehicle, or as authorized by SFMTA.

(9) Except as prohibited by the rules of the Paratransit Program, a Driver may transport two or more passengers who voluntarily agree to split the fare between them. The passengers may by mutual agreement split the fare according to any formula; provided, however, that regardless of any mutual agreement of the passengers, the Driver shall not collect payments that, when combined, exceed the fare shown on the Taximeter at the time that the last passenger reaches their destination.

(10) Drivers shall comply with any passenger request to turn down, turn off or change the channel of any audible device that is not required for safe operation of the vehicle or communication with a Color Scheme, Dispatch Service, law enforcement agency, health care provider, or other emergency service agency. A Driver is not required to comply with a passenger request for any particular audio selection or other passenger listening preferences.

(11) Except for emergencies, including but not limited to an emergency call to a Dispatch Service, a law enforcement agency, health care provider, or other emergency service agency, Drivers shall immediately comply with any passenger request to terminate mobile telephone conversations.

(12) Drivers may only use personal telephones in the vehicle in accordance with all applicable laws. While a passenger is in the vehicle, Drivers' personal conversations must be limited in number and short in duration, and at no time shall a Driver allow a personal communication to interfere with the Driver's full attention to the operation of the vehicle.

(13) During a shift a Driver may not monitor or listen to any Dispatch Service other than the Dispatch Service that provides service to the Color Scheme with which the vehicle is affiliated.

(14) A Driver shall not operate a Motor Vehicle for Hire in a reckless or dangerous manner.

(15) Ramp Taxi Service.

(A) Every Ramp Taxi Driver must log on the In-Taxi Equipment at the beginning of the shift.

(B) Every Ramp Taxi Driver shall meet an average response time to any request for service by a customer using a wheelchair of 20 minutes from the time that the Driver accepts the call.

(C) A Ramp Taxi Driver shall grant priority to requests for service from passengers who use wheelchairs, and once dispatched to a call from a customer using a wheelchair may not accept any other fare while en route to that dispatched call, except as otherwise instructed by the dispatcher. In the absence of a request for service to a passenger who uses a wheelchair, a Ramp Taxi Driver may transport any person.

(16) Drivers shall only receive a tip when expressly and voluntarily offered by the person paying the fare. Drivers may not demand, request, imply, assume or otherwise suggest that the Driver should receive any amount in excess of the authorized fare. A Driver may, without demanding or assuming that the passenger will pay a tip, ask the passenger whether they would like to tip the Driver when the tip is only capable of being added to a payment only by action of the Driver.

(17) The Driver must keep any audio communication device required by this Article at an audible volume, or any visual communication device visible to the Driver at all times during the shift.

(18) Drivers shall, at the beginning of a trip, inform any passenger whose destination is more than 15 miles from City limits, or if the passenger is picked up at the San Francisco International Airport, whose announced destination is more than 15 miles from the San Francisco International Airport and is not within the City limits, that the fare to be charged will be 150% of the amount registered on the Taximeter in accordance with Section 1122(b)(2).

(19) Drivers shall carry sufficient cash to be able to provide change for 20 dollars.

(20) Drivers shall, at the beginning of a trip, inform passenger(s) whose destination requires the crossing of a toll bridge, the amount of the toll charged and that the toll charge is to be paid by the passenger(s) regardless of the direction in which the toll is collected.

(21) Drivers may charge a passenger less than the fare shown on the Taximeter at the end of a trip.

(22) Drivers shall give a fare receipt upon request of the person paying the fare. Drivers shall complete fare receipts legibly with the Driver's badge number, the Vehicle Number, the Medallion number, and the amount of the fare.

(23) Drivers shall make a visual check of the interior of the vehicle at the conclusion of each trip to determine if any property has been left behind. If any of the passenger's property was loaded in the trunk, the Driver shall check the trunk area at the end of the trip to ensure that no property was left behind.

(24) Upon discovery, a Driver shall report Found Property to the Dispatch Service immediately, and shall take reasonable measures to attempt to return Found Property in the vehicle to the rightful owner during the shift in which it was discovered. If it is not possible to return the Found Property before the end of the shift, the Driver shall leave it with the Color Scheme or Dispatch Service at the end of the shift. Drivers shall record a description of the Found Property on a form provided by the Color Scheme or Dispatch Service, stating whom they have contacted about the Found Property, and whether it was returned to the owner during the shift in which it was discovered, and if not, where and with whom it was left.

(25) If during the course of the work shift, any equipment failure makes the continued operation of the Taxi or Ramp Taxi unsafe, including but not limited to a Ramp Taxi without the required number of functional tie-down securements and lap/shoulder seat belts, then the Driver shall immediately return to vehicle to the Color Scheme to be taken out of service.

(26) The Driver shall not place or allow to be placed any loose items on the dashboard or rear shelf of the vehicle.

(27) The Driver shall keep the vehicle trunk and/or baggage area clean, free of items or materials that could damage or stain passengers' baggage, and free of any container containing flammable liquids.

(28) No Driver shall leave a vehicle unattended on a public street for more than 4 hours.

(29) No Driver shall threaten, harass, or abuse another person, nor may a Driver speak in an obscene, threatening or abusive manner.

(30) Drivers shall not use or attempt to use any physical force against any person except proportional, reasonable force necessary for self-defense or defense of another.

(31) Drivers shall be clean in dress and person.

(32) Any Driver who is pulled over by a Peace Officer while the Taximeter is in operation must turn off the Taximeter from the time the vehicle is pulled over until the time that the Peace Officer authorizes the vehicle to depart.

(33) No Driver shall burn any substance, drink, or eat while a passenger is in the vehicle.

(34) Resolution of Fare Disputes. In any case of fare dispute between the Driver and passenger(s), the Driver shall call the Police or, with the consent of the passenger, convey the passenger(s) to the nearest police station, where the officer in charge shall immediately decide the case, and if the decision is in favor of the passenger, the driver shall convey the passenger from the Police Station to his or her original destination without additional charge.

(35) A Driver shall not demand any other form of payment from a Paratransit Debit Card holder who offers the Driver a valid Paratransit Debit Card that contains an adequate balance to pay for the requested trip that is authorized by the Paratransit Program.

(36) A Driver shall not refuse a Paratransit Debit Card on the ground that the In-Taxi Equipment is not functional, but shall offer the customer the option of paying using manual back-up paratransit forms.

(37) A Driver shall not add a tip to a fare charged to a Paratransit Debit Card

without authorization from the passenger.

(38) A Driver shall not disconnect or otherwise tamper with any equipment that is required by this Article.

(f) **Duties at End of Shift.**

(1) Until February 28, 2013, or earlier pursuant to notice from the SFMTA that the Color Scheme for which he or she drives has implemented or affiliated with a Dispatch Service that has implemented a system for generating electronic trip data, Drivers shall turn in all completed paper waybills to the Color Scheme at the conclusion of each shift.

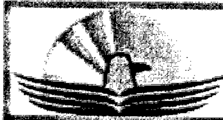
(2) The Driver shall remove any litter, personal items, and any other loose items that do not belong with the vehicle.

(3) Drivers shall turn any unreturned or unclaimed Found Property in the Driver's possession at the end of a shift to the Color Scheme's or Dispatch Services' place of business, and shall obtain a receipt for the item regardless of value.

(g) **Controlled Substance Testing Program.** Reserved.

(Added by SFMTA Bd. Res. No. 09-23, 2/23/2009; amended by SFMTA Bd. Res. No. 09-077, 5/19/2009; SFMTA Bd. Res. No. 09-104, 6/16/2009; SFMTA Bd. Res. No. 09-183, 10/20/2009; SFMTA Bd. Res. No. 10-029, 2/26/2010; SFMTA Bd. Res. No. 11-155, Ad. 12/6/2011, Eff. 1/6/2012; SFMTA Bd. Res. No. 12-078, Ad. 6/5/2012, Eff. 7/6/2012; SFMTA Bd. Res. No. 12-079, Ad. 6/5/2012, Eff. 7/6/2012; SFMTA Bd. Res. No. 12-111, Ad. 8/21/2012, Eff. 9/21/2012; SFMTA Bd. Res. No. 12-148, Ad. 11/20/2012, Eff. 12/21/2012)

SEC. 1113. TAXI AND RAMP TAXI EQUIPMENT REQUIREMENTS.



New Resolution Notice

Publisher's Note: This section has been **AMENDED** by a new resolution (SFMTA Bd. Res. No. 13-033, adopted 3/19/2013, effective 4/19/2013). The text of the amendment will be incorporated below when the new resolution is effective.

(a) **Vehicle Operation.**

(1) **Safe Operating Condition.** All Taxis and Ramp Taxis must be maintained in a safe operating condition. Except as otherwise specified herein, all Taxi and Ramp Taxi Medallion Holders and Color Schemes are jointly and severally responsible for ensuring that all Taxis and Ramp Taxis for which they hold permits or with which they are affiliated meet all equipment requirements listed in this Section. In addition to imposing any applicable penalty for non-compliance with equipment requirements, The SFMTA may remove any vehicle from service for any violation of this Section until the violation is corrected and the

vehicle is inspected and approved by the SFMTA.

(b) **Equipment Placement.** The placement of any equipment or information required by this Section 1113 shall not interfere with the Driver's visibility or the operation of any O.E.M. equipment.

(c) **Exterior Display of Identifying Information.** Every Taxi or Ramp Taxi shall have the following information displayed on the exterior of the vehicle:

(1) **Vehicle Number.**

(A) The Vehicle Number in numerals of a color that contrasts with the color of the rest of the vehicle, at least four inches high and positioned directly under the windows on or within six inches of the forward-most portion of both front doors, and on the rear facing portion of the trunk lid of the vehicle.

(B) The Vehicle Number on the roof, hood or trunk of the vehicle in numbers at least 18 inches in length of a color that contrasts with the color of the rest of the vehicle. If the numbers are displayed on the roof, they shall be mounted and centered directly behind the top light.

(2) **San Francisco Taxicab.** The words "San Francisco Taxicab" with letters at least two inches high, in a color which contrasts with the color of the rest of the vehicle on both sides of the vehicle's rear quarter panels and to the trunk directly above the rear bumper.

(3) **Inspection Certificate.** A current and valid decal indicating satisfactory completion of vehicle inspection.

(4) **Trade Name.** The name of the Color Scheme with which the vehicle's Medallion is affiliated in letters at least two inches in height on the exterior of the side doors of each side of the vehicle.

(5) **Trade Dress.** The exterior of every Taxi and Ramp Taxi shall be well painted with the color(s) of the Color Scheme with which it is affiliated.

(6) **Medallion.** During all hours of operation of a Motor Vehicle for Hire the Medallion shall be placed in the front windshield in such a manner that the Medallion number shall be clearly visible from the exterior of the vehicle.

(7) **Security Camera Notice.** A notice meeting all requirements of applicable law notifying passengers of the presence of a security camera in the vehicle.

(8) **Telephone Number for Dispatch.** A telephone number enabling the public to reach the dispatch service with which the vehicle is affiliated.

(9) **Tobacco Advertising Ban.**

(A) Color Schemes and Medallion Holders are prohibited from placing or maintaining, or causing or allowing to be placed or maintained, any advertising or promotion of cigarettes or tobacco products on any Taxi or Ramp Taxi.

(B) For the purposes of this subsection, "tobacco product" shall mean any substance containing tobacco leaf, including but not limited to, cigarettes, cigars, pipes, tobacco, snuff, chewing tobacco and dipping tobacco. For the purposes of this Section, "promote" or "promotion" shall include a display of any logo, brand name, character, graphics, colors, scenes, or designs that are trademarks of a particular brand of tobacco product.

(d) **Interior Display of Information.** Every Taxi or Ramp Taxi shall have the following items in the interior of the vehicle in a place clearly visible to passengers and in a format approved by the SFMTA:

(1) **Rate Information.** Information regarding the rates and fees that a Driver is authorized to charge a passenger.

(2) **311 Information.** Information about using the 311 system for complaints and lost property, including the Vehicle Number and the name of the Color Scheme.

(3) By February 28, 2013, every Taxi and Ramp Taxi shall be equipped with either an operational rear-seat passenger information monitor (PIM) that is connected to the Taximeter, or another credit and debit card payment processing device that is installed in the back seat or may be handed to the passenger in the back seat and allows the passenger to swipe his or her own payment card and choose a tip amount. Such PIM or payment processing device must meet any functional requirements and standards established, in writing, by the Director of Transportation.

(A) Any back seat PIM that is connected to the Taximeter shall:

(i) Display, at a minimum, the information required in this subsection (d), in addition to any further display specifications established, in writing, by the Director of Transportation;

(ii) Be accessible to individuals with visual impairments and compliant with standards that shall be developed by the SFMTA to ensure that the Color Schemes' interface to the visually impaired is uniform; and

(iii) Provide the Driver and the passenger the ability to completely mute the sound and dim or turn off the display by means of clearly perceptible instructions.

(B) Any PIM that is not connected to the Taximeter shall allow a passenger with visual impairments to hear the total to be charged to a payment card, and to swipe his or her own card and select his or her own tip amount from the back seat of the taxicab by

means of audio cues.

(4) **Driver Identification.** A holder for a Color Scheme Identification Card.

(e) **Communication Equipment.** Every Taxi and Ramp Taxi shall be equipped with direct voice access and two-way communication with a Dispatch Service affiliated with the Taxi or Ramp Taxi.

(f) **Taximeters.**

(1) **Seal Required.** The Taximeter installed in any Taxi and Ramp Taxi must have a current and valid seal from the Department of Public Health Weights and Measures. Any Taximeter removed from a Taxi or Ramp Taxi with or without its seals intact and placed in the same or another Taxi or Ramp Taxi must be certified and resealed by the Weights and Measures. Any Taxi or Ramp Taxi found to have Taximeter seals that are broken, removed, destroyed, marred or otherwise tampered with will be taken out of service until correctly repaired.

(2) **Installation.** All Taximeter makes and models must meet the approval of the SFMTA prior to their installation and must meet all requirements of the Paratransit Program. The Taximeter shall be mounted in an area that is clearly visible at all times by any passenger in the vehicle.

(g) **Safety Partition.** Safety partitions of a design that is approved by the SFMTA may be installed in Taxi and/or Ramp Taxi vehicles at the option of the Color Scheme.

(h) **Emergency Equipment.** All Taxis and Ramp Taxis shall have at all times a functional spare tire, a working jack and wrench to replace a flat tire, and two 2 flares or 2 two freestanding reflectors.

(i) **Signage, Advertising and Displays.** Advertising or other displays on the exterior or interior of a taxi:

(1) May not impede the driver's vision in any way.

(2) May not cover any vehicle identifiers required by law or regulation.

(3) May not cover any portion of the license plate of the vehicle.

(4) May not interfere with vehicle operation, including but not limited to the tire inflation valve or any wheel balancing dynamics. Defects in any portion of the wheel must be remedied before any advertisement or other display is affixed to the wheel.

(5) May not interfere with any safety features of the vehicle or present a safety hazard to passengers.

(6) Vehicle wrap advertising, whether partial or full, is not allowed on a Taxi or Ramp Taxi vehicle.

(j) **Lights.**

(1) **Standard Lights.** All Taxi and Ramp Taxi vehicles shall be equipped with exterior lights as required by the Vehicle Code, an inside dome light, and dashboard lights. All O.E.M. lights must be maintained in working condition as designed, and all lenses of such lights are to be reasonably intact. No O.E.M. light may be obstructed or disconnected during operation. Any additional modifications of O.E.M. lights or installation of additional lights requires prior approval by the SFMTA.

(2) **Top Lights.**

(A) All Taxis and Ramp Taxis must be equipped with a working top light containing a light or lights permanently attached to the roof of the vehicle, which may either have the name of the Color Scheme printed on it, or the words "Taxicab" or "taxi".

(B) Each Driver shall ensure that such top light is illuminated at all times except when the vehicle is engaged in the transportation of a passenger. The top light shall turn on while the Taximeter is in the non-recording position and shall turn off while the Taximeter is in the recording position.

(k) **Standard Equipment.** All Taxis and Ramp Taxi vehicles shall have all equipment required by the Vehicle Code maintained in good working order such that the equipment functions effectively for the purpose for which it was intended. All Taxi and Ramp Taxi vehicles shall also be equipped with:

(1) Automatic door locks that can be controlled by the Driver and the passenger.

(2) Available and easily visible seat belts in all seating positions where passengers may ride.

(3) Speedometer and odometer.

(4) Heater and air conditioner.

(5) Door hinges, locks and latches.

(6) Doors that operate easily and open and close securely from either the outside or inside of the vehicle.

(7) Bumpers and body moldings in good condition and securely attached as the manufacturer intended.

(8) Shock absorbers and springs.

(9) Suspension.

(10) Steering.

(11) A holder for the Medallion placed in such a position that the Medallion is clearly visible from the front exterior of the vehicle and that is either attached to the dashboard or to the left side of the right front support beam, on the interior of the vehicle.

(12) In-Taxi Equipment.

(13) Wheels with all lug nuts in place and secured, of matching design, and with matching hubcaps attached. Hubcaps must be of either the original manufacturer's design or of a design authorized by the SFMTA, unless wheels are of a custom design that does not use hubcaps.

(14) Tires in safe operating condition and of matching design (i.e., all whitewalls or all black walls), without tire repair plugs or cuts in the sidewall, separated treads, bumps, bubbles, or anything protruding from the tire; and with a minimum remaining tread of at least 1/32 of an inch. Any Taxi or Ramp Taxi that violates this requirement will be placed immediately out of service.

(15) Only O.E.M. size tires of the same size used at the time of the Taximeter inspection may be used on any vehicle, including spare vehicles.

(l) **Windows.** All windows and the windshields of Taxis and Ramp Taxis shall be kept clean and clear, both the outside and inside. No additional tinting or reflective material may be placed on any vehicle window except factory installed tinting. Only safety glass with the lowest factory installed tint may be used.

(m) **Security Cameras.**

(1) All Taxis and Ramp Taxis shall be equipped with an operational security camera manufactured after December 31, 2006.

(n) **Condition of Vehicle.**

(1) **Vehicle Integrity.** The vehicle shall be structurally sound and operate with minimum vibration and noise.

(2) **Vehicle Body.** Vehicle bodies must be free of noticeable dents, rust and holes. A Taxi or Ramp Taxi shall not be placed in service if:

(A) There are visible dents that exceed three square feet in any single area of the exterior surface of the vehicle and the deepest point of depression is ¾ of an inch or greater; or

(B) There are visible dents that exceed four square feet of the total exterior surface of the vehicle and the deepest point of depression is ¾ of an inch or greater, or

(C) There are visible dents that exceed six lineal feet of the total exterior surface of the vehicle and the deepest point of depression is ¾ of an inch or greater, or

(D) There is any area of the exterior surface of the vehicle that contains a hole larger than six square inches, or there is a visible dent that exceeds 144 square inches and the deepest point of depression is more than two inches.

(o) **Cleaning and Disinfection of Vehicle.**

(1) Every Taxi or Ramp Taxi must be regularly cleaned so that the interior is clean, orderly and kept free of offensive odors and stains.

(2) A Taxi or Ramp Taxi vehicle must be disinfected whenever required by SFMTA.

(3) **Seats.** Rear seats shall be upholstered with vinyl or leather in good repair and matching the vehicle's interior colors Seat covers may not be stained or torn. Seat springs may not be broken nor may they protrude through the upholstery. Seats shall be firm and comfortable with the tension of the seat springs evenly distributed.

(4) **Floormats.** Rubber floormats are required on the floor of the rear seating area of the vehicle.

(p) **Vehicle Title.** The principal vehicle authorized for the operation of a Taxi or Ramp Taxi Medallion may be registered only in the name of the Medallion Holder, Color Scheme, and/or a Driver holding a valid lease for the vehicle that meets the requirements of this Article. If the vehicle is registered to the Driver, the registration must also include the name of the Medallion Holder or Color Scheme.

(q) **Vehicle Mileage.** Starting mileage may not be more than 70,000 miles when a vehicle is placed into service. No vehicle may be operated as a Taxi or Ramp Taxi after the vehicle has reached 325,000 miles.

(r) **Vehicle Age.** No vehicle older than six model years may be placed into service as a Taxi or Ramp Taxi vehicle, and no vehicle older than eight model years may remain in service as a Taxi or Ramp Taxi vehicle.

(s) **Inspections.**

(1) **Inspection Required.** All Taxis and Ramp Taxis shall be inspected by the SFMTA or its designee, every six months if they are used as spare vehicles or have 200,000 miles or more on the odometer, and every 12 months for regular vehicles, at a date and time designated by the SFMTA, and at any other time deemed necessary by the SFMTA. At the time of a scheduled inspection of the vehicle, the Color Scheme or Taxi or Ramp Taxi Medallion Holder must provide the following:

(A) Valid and current State of California vehicle registration.

(B) Valid and current Brake Certificate issued by an official inspection station certified by the State of California within 60 days prior to inspection.

(C) Proof of insurance meeting the requirements of all applicable laws and regulations.

(D) A Vehicle Introduction Form signed and approved by the SFMTA.

(2) **New Vehicle.** If a new vehicle is purchased for use as a Taxi or Ramp Taxi, the vehicle owner may furnish a written certificate of compliance issued by the automobile dealership in lieu of the documents required in subparagraphs 1113(s)(1)(A) through 1113(s)(1)(D) above, provided that the certificate is dated within 60 days of the annual inspection. The automobile dealership must be certified by the State of California as an official inspection station.

(3) **Salvage Vehicle.** No vehicle which has been designated as "Salvage" by the California Department of Motor Vehicles may be placed into service as a taxicab unless the vehicle has been inspected and approved by the SFMTA. The SFMTA may require documents to establish the chain of title for Salvage Vehicles.

(4) **Inspection Certification.** Upon satisfactory completion of all inspection requirements the SFMTA shall affix a decal and transponder to the Taxi or Ramp Taxi that authorizes the Taxi or Ramp Taxi to be operated for the time period specified upon the decal.

(5) **Failing Inspection.** If, on inspection the SFMTA determines that a vehicle does not meet applicable requirements, the vehicle may fail inspection and may be ordered out of service until the condition(s) are corrected. A failed vehicle must be re-inspected and approved before being returned to service and must pass another inspection in six months from the date of return to service. The decision whether to pass or fail a vehicle shall be within the sole discretion of the SFMTA.

(6) **Removal of Vehicle from Service.**

(A) A Color Scheme shall make any vehicle available for inspection upon SFMTA request. If a Color Scheme fails to make a vehicle available for inspection or if the SFMTA determines that a vehicle is not in compliance with all applicable laws and regulations, the SFMTA may order the vehicle to be removed from service until it passes inspection.

(B) If the SFMTA determines that additional repairs or further inspection of the mechanical condition or safety equipment of a Taxi or Ramp Taxi is necessary, the Color Scheme or Medallion Holder shall make the necessary repairs or arrangements in order to determine if repairs are necessary, and must provide a statement of findings to the SFMTA from the repair person.

(7) **Fraud in Connection with Inspection Prohibited.** Misconduct in connection with required inspection is strictly prohibited and is grounds for revocation of a permit. Misconduct may include, but is not limited to, substitution of registered owners on a temporary basis for inspection purposes, substitution of any vehicle part or equipment within 30 days before or after an inspection for the purpose of passing inspection, or knowingly making false statements to SFMTA or SFPD or their designees in connection with an inspection. This Section shall be strictly enforced to ensure the integrity of the San Francisco taxi fleet and the safety of the public.

(t) **Replacement Vehicles.** Whenever an existing Taxi or Ramp Taxi is replaced with another vehicle, the replacement vehicle must be inspected and approved prior to use.

(u) **Ramp Taxis.** Every vehicle used as a Ramp Taxi shall have a ramp at least 30 inches wide. Any new model of Ramp Taxi vehicle proposed for use as a Ramp Taxi shall be subject to the prior approval of the SFMTA and the Paratransit Coordinating Council.

(v) **Retired Vehicles.** No Permit Holder may offer any Taxi or Ramp Taxi vehicle for sale to the public until all remnants of the Color Scheme, including the top light and all exterior lettering, numbering, signage, and any other item required to be displayed on a Taxi or Ramp Taxi are completely removed.

(Added by SFMTA Bd. Res. No. 09-23, 2/23/2009; amended by SFMTA Bd. Res. No. 09-077, 5/19/2009; SFMTA Bd. Res. No. 09-104, 6/16/2009; SFMTA Bd. Res. No. 11-017, 2/1/2011; SFMTA Bd. Res. No. 12-025, Ad. 2/21/2012, Eff. 3/23/2012; SFMTA Bd. Res. No. 12-080, Ad. 6/5/2012, Eff. 7/6/2012; SFMTA Bd. Res. No. 12-111, Ad. 8/21/2012, Eff. 9/21/2012; SFMTA Bd. Res. No. 12-148, Ad. 11/20/2012, Eff. 12/21/2012)

Telecommunications Act of 1996
47 United States Code Section 153(24)

TAB L

United States Code Annotated
Title 47. Telegraphs, Telephones, and Radiotelegraphs
Chapter 5. Wire or Radio Communication (Refs & Annos)
Subchapter I. General Provisions (Refs & Annos)

47 U.S.C.A. § 153

§ 153. Definitions

Effective: October 8, 2010
Currentness

For the purposes of this chapter, unless the context otherwise requires--

(1) Advanced communications services

The term "advanced communications services" means--

(A) interconnected VoIP service;

(B) non-interconnected VoIP service;

(C) electronic messaging service; and

(D) interoperable video conferencing service.

(2) Affiliate

The term "affiliate" means a person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person. For purposes of this paragraph, the term "own" means to own an equity interest (or the equivalent thereof) of more than 10 percent.

(3) Amateur station

The term "amateur station" means a radio station operated by a duly authorized person interested in radio technique solely with a personal aim and without pecuniary interest.

(4) AT&T Consent Decree

The term "AT&T Consent Decree" means the order entered August 24, 1982, in the antitrust action styled United States v. Western Electric, Civil Action No. 82-0192, in the United States District Court for the District of Columbia, and includes any judgment or order with respect to such action entered on or after August 24, 1982.

Next

(5) Bell operating company

The term "Bell operating company"--

(A) means any of the following companies: Bell Telephone Company of Nevada, Illinois Bell Telephone Company, Indiana Bell Telephone Company, Incorporated, Michigan Bell Telephone Company, New England Telephone and Telegraph Company, New Jersey Bell Telephone Company, New York Telephone Company, US West Communications Company, South Central Bell Telephone Company, Southern Bell Telephone and Telegraph Company, Southwestern Bell Telephone Company, The Bell Telephone Company of Pennsylvania, The Chesapeake and Potomac Telephone Company, The Chesapeake and Potomac Telephone Company of Maryland, The Chesapeake and Potomac Telephone Company of Virginia, The Chesapeake and Potomac Telephone Company of West Virginia, The Diamond State Telephone Company, The Ohio Bell Telephone Company, The Pacific Telephone and Telegraph Company, or Wisconsin Telephone Company; and

(B) includes any successor or assign of any such company that provides wireline telephone exchange service; but

(C) does not include an affiliate of any such company, other than an affiliate described in subparagraph (A) or (B).

(6) Broadcast station

The term "broadcast station", "broadcasting station", or "radio broadcast station" means a radio station equipped to engage in broadcasting as herein defined.

(7) Broadcasting

The term "broadcasting" means the dissemination of radio communications intended to be received by the public, directly or by the intermediary of relay stations.

(8) Cable service

The term "cable service" has the meaning given such term in section 522 of this title.

(9) Cable system

The term "cable system" has the meaning given such term in section 522 of this title.

(10) Chain broadcasting

The term "chain broadcasting" means simultaneous broadcasting of an identical program by two or more connected stations.

(11) Common carrier

The term "common carrier" or "carrier" means any person engaged as a common carrier for hire, in interstate or foreign communication by wire or radio or interstate or foreign radio transmission of energy, except where reference is made to common carriers not subject to this chapter; but a person engaged in radio broadcasting shall not, insofar as such person is so engaged, be deemed a common carrier.

(12) Connecting carrier

The term "connecting carrier" means a carrier described in clauses (2), (3), or (4) of section 152(b) of this title.

(13) Construction permit

The term "construction permit" or "permit for construction" means that instrument of authorization required by this chapter or the rules and regulations of the Commission made pursuant to this chapter for the construction of a station, or the installation of apparatus, for the transmission of energy, or communications, or signals by radio, by whatever name the instrument may be designated by the Commission.

(14) Consumer generated media

The term "consumer generated media" means content created and made available by consumers to online websites and services on the Internet, including video, audio, and multimedia content.

(15) Corporation

The term "corporation" includes any corporation, joint-stock company, or association.

(16) Customer premises equipment

The term "customer premises equipment" means equipment employed on the premises of a person (other than a carrier) to originate, route, or terminate telecommunications.

(17) Dialing parity

The term "dialing parity" means that a person that is not an affiliate of a local exchange carrier is able to provide telecommunications services in such a manner that customers have the ability to route automatically, without the use of any access code, their telecommunications to the telecommunications services provider of the customer's designation from among 2 or more telecommunications services providers (including such local exchange carrier).

(18) Disability

The term "disability" has the meaning given such term under section 12102 of Title 42.

(19) Electronic messaging service

The term "electronic messaging service" means a service that provides real-time or near real-time non-voice messages in text form between individuals over communications networks.

(20) Exchange access

The term "exchange access" means the offering of access to telephone exchange services or facilities for the purpose of the origination or termination of telephone toll services.

(21) Foreign communication

The term "foreign communication" or "foreign transmission" means communication or transmission from or to any place in the United States to or from a foreign country, or between a station in the United States and a mobile station located outside the United States.

(22) Great Lakes Agreement

The term "Great Lakes Agreement" means the Agreement for the Promotion of Safety on the Great Lakes by Means of Radio in force and the regulations referred to therein.

(23) Harbor

The term "harbor" or "port" means any place to which ships may resort for shelter or to load or unload passengers or goods, or to obtain fuel, water, or supplies. This term shall apply to such places whether proclaimed public or not and whether natural or artificial.

(24) Information service

The term "information service" means the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications, and includes electronic publishing, but does not include any use of any such capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service.

(25) Interconnected VoIP service

The term "interconnected VoIP service" has the meaning given such term under section 9.3 of title 47, Code of Federal Regulations, as such section may be amended from time to time.

(26) InterLATA service

The term "interLATA service" means telecommunications between a point located in a local access and transport area and a point located outside such area.

(27) Interoperable video conferencing service

The term "interoperable video conferencing service" means a service that provides real-time video communications, including audio, to enable users to share information of the user's choosing.

(28) Interstate communication

The term "interstate communication" or "interstate transmission" means communication or transmission (A) from any State, Territory, or possession of the United States (other than the Canal Zone), or the District of Columbia, to any other State, Territory, or possession of the United States (other than the Canal Zone), or the District of Columbia, (B) from or to the United States to or from the Canal Zone, insofar as such communication or transmission takes place within the United States, or (C) between points within the United States but through a foreign country; but shall not, with respect to the provisions of subchapter II of this chapter (other than section 223 of this title), include wire or radio communication between points in the same State, Territory, or possession of the United States, or the District of Columbia, through any place outside thereof, if such communication is regulated by a State commission.

(29) Land station

The term "land station" means a station, other than a mobile station, used for radio communication with mobile stations.

(30) Licensee

The term "licensee" means the holder of a radio station license granted or continued in force under authority of this chapter.

(31) Local access and transport area

The term "local access and transport area" or "LATA" means a contiguous geographic area--

(A) established before February 8, 1996, by a Bell operating company such that no exchange area includes points within more than 1 metropolitan statistical area, consolidated metropolitan statistical area, or State, except as expressly permitted under the AT&T Consent Decree; or

(B) established or modified by a Bell operating company after February 8, 1996, and approved by the Commission.

(32) Local exchange carrier

The term "local exchange carrier" means any person that is engaged in the provision of telephone exchange service or exchange access. Such term does not include a person insofar as such person is engaged in the provision of a commercial mobile service under section 332(c) of this title, except to the extent that the Commission finds that such service should be included in the definition of such term.

(33) Mobile service

The term "mobile service" means a radio communication service carried on between mobile stations or receivers and land stations, and by mobile stations communicating among themselves, and includes (A) both one-way and two-way radio communication services, (B) a mobile service which provides a regularly interacting group of base, mobile, portable, and associated control and relay stations (whether licensed on an individual, cooperative, or multiple basis) for private one-way or two-way land mobile radio communications by eligible users over designated areas of operation, and (C) any service for which a license is required in a personal communications service established pursuant to the proceeding entitled "Amendment to the Commission's Rules to Establish New Personal Communications Services" (GEN Docket No. 90-314; ET Docket No. 92-100), or any successor proceeding.

(34) Mobile station

The term "mobile station" means a radio-communication station capable of being moved and which ordinarily does move.

(35) Network element

The term "network element" means a facility or equipment used in the provision of a telecommunications service. Such term also includes features, functions, and capabilities that are provided by means of such facility or equipment, including subscriber numbers, databases, signaling systems, and information sufficient for billing and collection or used in the transmission, routing, or other provision of a telecommunications service.

(36) Non-interconnected VoIP service

The term "non-interconnected VoIP service'--

(A) means a service that--

(i) enables real-time voice communications that originate from or terminate to the user's location using Internet protocol or any successor protocol; and

(ii) requires Internet protocol compatible customer premises equipment; and

(B) does not include any service that is an interconnected VoIP service.

(37) Number portability

The term "number portability" means the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another.

(38) Operator

(A) The term "operator" on a ship of the United States means, for the purpose of parts II and III of subchapter III of this chapter, a person holding a radio operator's license of the proper class as prescribed and issued by the Commission.

(B) "Operator" on a foreign ship means, for the purpose of part II of subchapter III of this chapter, a person holding a certificate as such of the proper class complying with the provisions of the radio regulations annexed to the International Telecommunication Convention in force, or complying with an agreement or treaty between the United States and the country in which the ship is registered.

(39) Person

The term "person" includes an individual, partnership, association, joint-stock company, trust, or corporation.

(40) Radio communication

The term "radio communication" or "communication by radio" means the transmission by radio of writing, signs, signals, pictures, and sounds of all kinds, including all instrumentalities, facilities, apparatus, and services (among other things, the receipt, forwarding, and delivery of communications) incidental to such transmission.

(41) Radio officer

(A) The term "radio officer" on a ship of the United States means, for the purpose of part II of subchapter III of this chapter, a person holding at least a first or second class radiotelegraph operator's license as prescribed and issued by the Commission. When such person is employed to operate a radiotelegraph station aboard a ship of the United States, he is also required to be licensed as a "radio officer" in accordance with chapter 71 of Title 46.

(B) "Radio officer" on a foreign ship means, for the purpose of part II of subchapter III of this chapter, a person holding at least a first or second class radiotelegraph operator's certificate complying with the provisions of the radio regulations annexed to the International Telecommunication Convention in force.

(42) Radio station

The term "radio station" or "station" means a station equipped to engage in radio communication or radio transmission of energy.

(43) Radiotelegraph auto alarm

The term "radiotelegraph auto alarm" on a ship of the United States subject to the provisions of part II of subchapter III of this chapter means an automatic alarm receiving apparatus which responds to the radiotelegraph alarm signal and has been approved by the Commission. "Radiotelegraph auto alarm" on a foreign ship means an automatic alarm receiving apparatus which responds to the radiotelegraph alarm signal and has been approved by the government of the country in which the ship is registered: *Provided*, That the United States and the country in which the ship is registered are parties to the same treaty, convention, or agreement prescribing the requirements for such apparatus. Nothing in this chapter or in any other provision of law shall be construed to require the recognition of a radiotelegraph auto alarm as complying with part II of subchapter

Next

III of this chapter, on a foreign ship subject to part II of subchapter III of this chapter, where the country in which the ship is registered and the United States are not parties to the same treaty, convention, or agreement prescribing the requirements for such apparatus.

(44) Rural telephone company

The term "rural telephone company" means a local exchange carrier operating entity to the extent that such entity--

(A) provides common carrier service to any local exchange carrier study area that does not include either--

(i) any incorporated place of 10,000 inhabitants or more, or any part thereof, based on the most recently available population statistics of the Bureau of the Census; or

(ii) any territory, incorporated or unincorporated, included in an urbanized area, as defined by the Bureau of the Census as of August 10, 1993;

(B) provides telephone exchange service, including exchange access, to fewer than 50,000 access lines;

(C) provides telephone exchange service to any local exchange carrier study area with fewer than 100,000 access lines; or

(D) has less than 15 percent of its access lines in communities of more than 50,000 on February 8, 1996.

(45) Safety convention

The term "safety convention" means the International Convention for the Safety of Life at Sea in force and the regulations referred to therein.

(46) Ship

(A) The term "ship" or "vessel" includes every description of watercraft or other artificial contrivance, except aircraft, used or capable of being used as a means of transportation on water, whether or not it is actually afloat.

(B) A ship shall be considered a passenger ship if it carries or is licensed or certificated to carry more than twelve passengers.

(C) A cargo ship means any ship not a passenger ship.

(D) A passenger is any person carried on board a ship or vessel except (1) the officers and crew actually employed to man and operate the ship, (2) persons employed to carry on the business of the ship, and (3) persons on board a ship when they are carried, either because of the obligation laid upon the master to carry shipwrecked, distressed, or other persons in like

or similar situations or by reason of any circumstance over which neither the master, the owner, nor the charterer (if any) has control.

(E) "Nuclear ship" means a ship provided with a nuclear powerplant.

(47) State

The term "State" includes the District of Columbia and the Territories and possessions.

(48) State commission

The term "State commission" means the commission, board, or official (by whatever name designated) which under the laws of any State has regulatory jurisdiction with respect to intrastate operations of carriers.

(49) Station license

The term "station license", "radio station license", or "license" means that instrument of authorization required by this chapter or the rules and regulations of the Commission made pursuant to this chapter, for the use or operation of apparatus for transmission of energy, or communications, or signals by radio, by whatever name the instrument may be designated by the Commission.

(50) Telecommunications

The term "telecommunications" means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

(51) Telecommunications carrier

The term "telecommunications carrier" means any provider of telecommunications services, except that such term does not include aggregators of telecommunications services (as defined in section 226 of this title). A telecommunications carrier shall be treated as a common carrier under this chapter only to the extent that it is engaged in providing telecommunications services, except that the Commission shall determine whether the provision of fixed and mobile satellite service shall be treated as common carriage.

(52) Telecommunications equipment

The term "telecommunications equipment" means equipment, other than customer premises equipment, used by a carrier to provide telecommunications services, and includes software integral to such equipment (including upgrades).

(53) Telecommunications service

The term "telecommunications service" means the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

(54) Telephone exchange service

The term "telephone exchange service" means (A) service within a telephone exchange, or within a connected system of telephone exchanges within the same exchange area operated to furnish to subscribers intercommunicating service of the character ordinarily furnished by a single exchange, and which is covered by the exchange service charge, or (B) comparable service provided through a system of switches, transmission equipment, or other facilities (or combination thereof) by which a subscriber can originate and terminate a telecommunications service.

(55) Telephone toll service

The term "telephone toll service" means telephone service between stations in different exchange areas for which there is made a separate charge not included in contracts with subscribers for exchange service.

(56) Television service.

(A) Analog television service.

The term "analog television service" means television service provided pursuant to the transmission standards prescribed by the Commission in section 73.682(a) of its regulations (47 C.F.R. 73.682(a)).

(B) Digital television service.

The term "digital television service" means television service provided pursuant to the transmission standards prescribed by the Commission in section 73.682(d) of its regulations (47 C.F.R. 73.682(d)).

(57) Transmission of energy by radio

The term "transmission of energy by radio" or "radio transmission of energy" includes both such transmission and all instrumentalities, facilities, and services incidental to such transmission.

(58) United States

The term "United States" means the several States and Territories, the District of Columbia, and the possessions of the United States, but does not include the Canal Zone.

(59) Wire communication

The term "wire communication" or "communication by wire" means the transmission of writing, signs, signals, pictures, and sounds of all kinds by aid of wire, cable, or other like connection between the points of origin and reception of such transmission, including all instrumentalities, facilities, apparatus, and services (among other things, the receipt, forwarding, and delivery of communications) incidental to such transmission.

Unruh Civil Rights Act, California Civil Code Section 51

TAB M

West's Annotated California Codes
Civil Code (Refs & Annos)
Division 1. Persons (Refs & Annos)
Part 2. Personal Rights (Refs & Annos)

West's Ann.Cal.Civ.Code § 51

§ 51. Unruh Civil Rights Act; equal rights; business establishments; violation

Effective: January 1, 2012
Currentness

(a) This section shall be known, and may be cited, as the Unruh Civil Rights Act.

(b) All persons within the jurisdiction of this state are free and equal, and no matter what their sex, race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, or sexual orientation are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever.

(c) This section shall not be construed to confer any right or privilege on a person that is conditioned or limited by law or that is applicable alike to persons of every sex, color, race, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation or to persons regardless of their genetic information.

(d) Nothing in this section shall be construed to require any construction, alteration, repair, structural or otherwise, or modification of any sort whatsoever, beyond that construction, alteration, repair, or modification that is otherwise required by other provisions of law, to any new or existing establishment, facility, building, improvement, or any other structure, nor shall anything in this section be construed to augment, restrict, or alter in any way the authority of the State Architect to require construction, alteration, repair, or modifications that the State Architect otherwise possesses pursuant to other laws.

(e) For purposes of this section:

(1) "Disability" means any mental or physical disability as defined in Sections 12926 and 12926.1 of the Government Code.

(2)(A) "Genetic information" means, with respect to any individual, information about any of the following:

(i) The individual's genetic tests.

(ii) The genetic tests of family members of the individual.

(iii) The manifestation of a disease or disorder in family members of the individual.

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(B) "Genetic information" includes any request for, or receipt of, genetic services, or participation in clinical research that includes genetic services, by an individual or any family member of the individual.

(C) "Genetic information" does not include information about the sex or age of any individual.

(3) "Medical condition" has the same meaning as defined in subdivision (h) of Section 12926 of the Government Code.

(4) "Religion" includes all aspects of religious belief, observance, and practice.

(5) "Sex" includes, but is not limited to, pregnancy, childbirth, or medical conditions related to pregnancy or childbirth. "Sex" also includes, but is not limited to, a person's gender. "Gender" means sex, and includes a person's gender identity and gender expression. "Gender expression" means a person's gender-related appearance and behavior whether or not stereotypically associated with the person's assigned sex at birth.

(6) "Sex, race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, or sexual orientation" includes a perception that the person has any particular characteristic or characteristics within the listed categories or that the person is associated with a person who has, or is perceived to have, any particular characteristic or characteristics within the listed categories.

(7) "Sexual orientation" has the same meaning as defined in subdivision (r) of Section 12926 of the Government Code.

(f) A violation of the right of any individual under the federal Americans with Disabilities Act of 1990 (P.L. 101-336 [1]) shall also constitute a violation of this section.

Credits

(Added by Stats.1905, c. 413, p. 553, § 1. Amended by Stats.1919, c. 210, p. 309, § 1; Stats.1923, c. 235, p. 485, § 1; Stats.1959, c. 1866, p. 4424, § 1; Stats.1961, c. 1187, p. 2920, § 1; Stats.1974, c. 1193, p. 2568, § 1; Stats.1987, c. 159, § 1; Stats.1992, c. 913 (A.B.1077), § 3; Stats.1998, c. 195 (A.B.2702), § 1; Stats.2000, c. 1049 (A.B.2222), § 2; Stats.2005, c. 420 (A.B.1400), § 3; Stats.2011, c. 261 (S.B.559), § 3; Stats.2011, c. 719 (A.B.887), § 1.5.)

Notes of Decisions (558)

Footnotes

1 For public law sections classified to U.S.C.A., see U.S.C.A. Tables.

West's Ann. Cal. Civ. Code § 51, CA CIVIL § 51

Current with all 2012 Reg.Sess. laws, Gov.Reorg.Plan No. 2 of 2011-2012, and all propositions on 2012 ballots.

End of Document

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Western Ass'n of Short Line Railroads v. Railroad Commission of State of California (1916) 173 Cal. 802

TAB N

173 Cal. 802, 162 P. 391, 1 A.L.R. 1455

WESTERN ASSOCIATION OF SHORT LINE RAILROADS (a Corporation), Petitioner,
v.
RAILROAD COMMISSION OF THE STATE OF CALIFORNIA, Respondent.
UNITED RAILROADS OF SAN FRANCISCO (a Corporation), Petitioner,
v.
RAILROAD COMMISSION OF THE STATE OF CALIFORNIA, Respondent.

Supreme Court of California.
S. F. Nos. 7614, 7641.
December 14, 1916.

RAILROAD COMMISSION—LEGISLATURE CANNOT ABRIDGE CONSTITUTIONAL POWERS.
It is not within the power of the legislature, either by its silence or by direct enactment, to modify, curtail, or abridge the constitutional grant of power to the railroad commission over transportation companies.

ID.—TRANSPORTATION COMPANIES—MOTOR TRUCKS AND AUTOMOBILE STAGES—ROUTE WITHOUT LIMITS OF MUNICIPALITY.
Section 22 of article XII of the constitution, as amended in 1911, granting power to the railroad commission to establish rates of charges for the transportation of passengers and freight by railroads and "other transportation companies," confers regulatory powers on the commission over companies transporting freight or passengers for hire on the public highways by means of motor trucks or automobile stages, along routes not exclusively within the limits of a municipality.

APPLICATION for a Writ of Mandate directed to the Railroad Commission of the State of California.

The facts are stated in the opinion of the court.

***802** William M. Abbott, William M. Cannon, Clarence M. Oddie, and Morrison, Dunne & Brobeck, for Petitioners.
Douglas Brookman, and Max Thelen, for Respondents.

HENSHAW, J.

Petitioner, Western Association of Short Line Railroads, is a corporation, organized to promote the best interests of the short, independent railroads, steam and electric, operating in the state of California and in other ***803** states. Fifteen of such California railroads are members of this corporation. It made application to the respondent commission to regulate, within the law, the transportation business of the so-called Wichita Transportation Company, which company admitted that it was engaged as a common carrier in the business of transporting freight in motor trucks on the public highways of the state of California between the city of San Diego, in San Diego County, and the city of El Centro, in Imperial County, as well as to intermediate and other points in this state. The United Railroads of San Francisco, petitioner, made like request of respondent commission for regulatory orders governing the conduct of the Peninsula Company, and showed that petitioner was operating an inter-urban electric car line, extending from Fifth and Mission Streets, in San Francisco, to the city of San Mateo: it was so operating under franchises obtained from the proper authorities; that the Peninsula Company was regularly operating and maintaining a system of automobile buses, carrying from sixteen to twenty passengers each, running upon regular schedule from the point of departure of petitioner's cars in San Francisco to their terminus in San Mateo, and making return trips from San Mateo to San Francisco in like manner, and upon a route paralleling as closely as possible the line of the petitioner's electric railway; that in so operating they charged for the service the identical through fare charged by the petitioner, and similar lesser fares for intermediate points; that the Peninsula Company was a common carrier, a public utility and a transportation company within the meaning of the law, power to regulate which and the duty to regulate which were conferred by law upon the railroad commission.

The railroad commission declined to entertain these petitions, upon the ground that the law had not vested in it jurisdiction so to do. Mandate was then sought from this court, and the single question thus presented is that indicated: Does the constitution, or do the legislative enactments of the state, vest the power of regulation over such transportation companies in the railroad commission?

In denying these applications the railroad commission filed an elaborate opinion, in which the question of power was discussed under two heads. First, the question of the constitutional grant of power; second, the question of the

legislative ***804** grant of power. Application for mandate before this court was in the first instance denied, it appearing to the court that the commission had reached and expressed a satisfactory conclusion upon both propositions. Subsequently this alternative writ of mandate was issued for further consideration of the first proposition, namely, whether or not the constitution has conferred upon the commission regulatory powers over transportation companies such as have herein been described.

It is not and will not be questioned but that if the constitution has vested such power, it is not within the legislative power, either by its silence or by direct enactment, to modify, curtail, or abridge this constitutional grant. The language of the constitution in dealing with these very powers places this beyond peradventure when it declares (sec. 22, art. XII) that "No provision of this constitution shall be construed as a limitation upon the authority of the legislature to confer upon the railroad commission additional powers of the same kind or different from those conferred herein which are not inconsistent with the powers conferred upon the railroad commission in this constitution." (See *Pacific Telephone & Telegraph Co. v. Eshleman*, 166 Cal. 660, 653, [Ann. Cas. 1915C, 822, 50 L. R. A. (N. S.) 652, 137 Pac. 1119].)

We agree with the construction placed by the commission upon the legislative enactments and with its conclusion that the legislature inadvertently failed or deliberately declined to make a specific grant of power to the railroad commission to regulate the affairs of these classes of transportation companies. We need not here repeat the convincing reasoning of the commission in this behalf, since doubtless its views will find expression in its own official reports, and it is sufficient for the purposes of this determination to express our concurrence in and with them.

We take up, then, the single consideration of the constitutional grant of power. It is found in section 22, article XII, of the constitution as it was amended in 1911. The section creates the railroad commission and defines its powers. In so doing it declares: "Said commission shall have the power to establish rates of charges for the transportation of passengers and freight by railroad and other transportation companies, and no railroad or other transportation company shall charge or demand or collect or receive a greater or less or ***805** different compensation for such transportation of passengers or freight, or for any service in connection therewith, between the points named in any tariff of rates, established by said commission, than the rates, fares and charges which are specified in such tariff." It is not questioned but that the Peninsula Company and the Wichita Transportation Company are public transportation companies, are common carriers, and are public utilities within the definition of section 23, article XII, of the constitution. As little will it be questioned but that if the quoted language of section 22 stood alone as a subject of construction it would be unhesitatingly held, in the present day, as it is held in construing similar language in other states, that it conferred upon the railroad commission regulatory powers over all transportation companies, therein including transportation companies of the classes under consideration. *Exempli gratia*, in *Georgia Railway & Power Co. v. Jitney Bus Co.*, the Georgia statute conferred jurisdiction upon the railroad commission over "all common carriers—railroads and express corporations or companies within this state," and its railroad commission held this to be a grant of power to regulate automobile buses and trucks carrying passengers and property for hire. (Public Utilities Rep. Ann. 1915C, see page 928.) Again the Illinois Public Utilities Commission had, under section 8 of that state's act, [Ill. Laws 1913, p. 464], been given "general jurisdiction over all public utilities," and a public utility was defined to be "every corporation that now or hereafter may own, etc., for public use any plant, equipment or property to be used for or in connection with the transportation of persons." Here, again, the Illinois Public Utilities Commission held this grant to confer upon it jurisdiction over such automobile passenger and freight carriers. (Public Utilities Rep. Ann. 1915, p. 853.) Therefore we repeat that one would have no hesitancy in declaring that the language of the Constitution, in conferring upon the railroad commission power of regulatory control over "railroads and other transportation companies," embraced within its grant companies of the nature we are considering. And we interrupt our argument here to say that while the problem is to be resolved solely under the determination of the existence or nonexistence of the power in the railroad commission, no reason appears why such power should not have been conferred upon it, and multitudinous ***806** reasons exist why it should have been conferred. These automobile stage companies carry passengers to great distances, over many and devious roads. It is a part of common knowledge that one may travel by this method at least from San Diego to Sacramento, and doubtless farther—a distance of over six hundred miles. Thousands of passengers are thus carried over mountains and plains. Aside from the mere matter of the regulation of fares, every consideration suggests the desirability, if not the need, of safety regulations touching the care and upkeep of the machines, the skill and

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prudence of the chauffeurs, etc. And touching the movement of freight, while in many instances these truck companies parallel railroads, in others they enter, unrestricted and uncontrolled, into new territory. Modern transportation has unquestionably reached the point where it is no more an answer to the farmer who thinks that the rates of the auto truck which passes his farm are extortionate, to say that he may haul his own product, than it would be to make him the same answer if he were complaining of a railroad extortion. And, moreover, it is not only a matter of common knowledge, but is presented in these cases, that in many instances these unregulated companies interfere seriously with the revenues of controlled public utilities, a percentage of whose revenues goes by way of taxes to the support of the state.

But returning to the fundamental questions: the nonexistence of the power in the railroad commission to supervise these corporations is found and declared by the railroad commission to rest upon the construction of the phrase, "other transportation companies," given to it by this court in *Board of Railroad Commrs. v. Market St. Ry. Co.*, 132 Cal. 677, [64 Pac. 1065]. It is said, and truly, that section 22, article XII, of the constitution, amended as it was in October, 1911, and embodying as it does the precise language contained in the section before amendment, will be held to have been amended and re-enacted in the light of the construction which this court had put upon that language. In 1901, section 22, so far as concerns the quoted language, stood identically as it does to-day. In that year the railroad commission made demand upon the Market Street Railway Company of San Francisco to produce its books, records, and papers, and submit itself to the regulatory powers of that commission as defined ***807** by the act of 1880. (Stats. 1880, p. 45.) The Market Street Railway Company resisted this demand. The railroad commission brought action in the superior court to enforce it. The railway company prevailed and the commission appealed, contending that it was given authority by virtue of section 22, article XII, of the constitution. Before this court the question for determination was stated to be, "do the words *'railroad and other transportation companies'* include a street railway company in a municipality engaged in the business of carrying passengers on street railroad cars?" This was the sole proposition presented to this court for determination. Mr. Justice Temple, in dissenting, held that from the context the meaning of "other transportation companies" was so plain as to deprive a court of the power to construe it. But the view of the majority of this court was that the words called for construction. So construing them this court held, for reasons not calling for repetition, as they are fully set forth in the opinion, that "other transportation companies" did not embrace within its meaning "sweet railway companies carrying passengers for hire within the municipal limits." But the decision, upon fundamental and familiar principles, decided nothing more than that this particular character of transportation company was not embraced within the purview of the language of the constitution. Thus it is said that the language of the constitution "is inconsistent with the idea that the entire people of the state (through the state railroad commission) were interested in the rates for carrying passengers within the corporate limits of a town or municipality"; and it is further declared, *arguendo:* "Companies engaged in draying, running freight-wagons, delivery-wagons, delivering parcels, teaming or running elevators, are engaged in the business of 'transportation'; but it surely could not be contended that they are subject to the jurisdiction of the 'railroad commission.' The people of the state would not have agreed to pay the salaries and expenses of the railroad commissioners, selected from different geographical sections of the state, for the purpose of regulating the charges of the 'United Carriage Company' of San Francisco. Yet it is a transportation company." This language is convincing in establishing the unquestioned fact that this court had in contemplation and was discussing transportation companies of whatsoever kind, operating exclusively within a municipality. And good reason ***808** appears for this, because all such transportation companies were subject to license fees and police regulations imposable upon them by the municipal authorities.

All, therefore, that was actually decided in the Market Street case was that the Market Street Railway and other street railways of its character were not embraced within the meaning of the phrase "other transportation companies," as employed in the constitution. The most that was inferentially declared in the *obiter* above quoted was that other transportation companies operating wholly within the limits of a municipality were not within the contemplation of the constitution. Further than this the decision did not go, and further than this it should not be carried. It results, therefore, that the adjudication relied on by the railroad commission in no wise determines the question presented. That question is at large. It may be thus put: Did the constitution in the language quoted exclude by necessary or even by fair construction control over transportation companies of the character here presented? Assuredly nothing in the language of the grant excludes them, and no legitimate construction upon the phrase so oft quoted demands their exclusion. It must be and therefore is held that the constitution has granted regulatory

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powers over such corporations to the railroad commission by virtue of section 22, article XII, of the constitution, and it follows herefrom that mandate should issue to the railroad commission to exercise such powers.

"It is ordered that a peremptory writ of mandate issue to the railroad commission requiring the commission to make its order that the defendants in the proceedings referred to pending before said commission, viz.: the 'Wichita Transportation Company,' and the 'Peninsula Rapid Transit Company,' forthwith file with the commission their schedules of rates, fares, charges and classifications, and further that the commission assume the jurisdiction over these companies which is conferred by section 22, article XII, of the constitution."

Shaw, J., Melvin, J., Lorigan, J., Sloss, J., Lawlor, J., and Angellotti, C. J., concurred.
Rehearing denied.

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