

SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY
BOARD OF DIRECTORS

RESOLUTION No. 15-143

WHEREAS, The SFMTA's Taxis and Accessible Services Division is responsible for the regulation of the private businesses that make up the San Francisco taxi industry, including qualifying and licensing permit holders, monitoring regulatory compliance, and administering discipline for regulatory violations; and,

WHEREAS, California Government Code Section 53075.5 requires drug and alcohol testing for Taxicab drivers; and,

WHEREAS, San Francisco is the only major jurisdiction in California that does not have a drug testing protocol for its taxicab drivers; and,

WHEREAS, The SFMTA is proposing a pre-permit, annual permit re-certification, post-accident, and reasonable suspicion drug and alcohol testing for all eligible taxicab drivers and applicants; and,

WHEREAS, Staff has proposed additional amendments to the Transportation Code to lower the barrier of entry for new medallion applicants and impose certain fines on a daily basis; and,

WHEREAS, The proposed amendments to Transportation Code Division II do not constitute a project under the California Environmental Quality Act (CEQA) pursuant to Title 14 of the California Code of Regulations Section 15060(c); and,

WHEREAS, A copy of this determination is on file with the Secretary for the SFMTA Board of Directors; now, therefore be it

RESOLVED, That the Board of Directors adopts the Taxi Driver Drug and Alcohol Testing Policy; and be it further

RESOLVED, That the Board of Directors amends Transportation Code Division II, Article 1100, Sections 1102, 1103, 1104, 1106, 1108, 1118 and 1121 to implement the Taxi Driver Drug and Alcohol Testing Policy and to lower the barrier of entry for new medallion applicants, and amends Transportation Code Division II, Article 300 Section 310 to impose certain fines on a daily basis.

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of October 20, 2015.

Secretary to the Board of Directors
San Francisco Municipal Transportation Agency

[Drug and Alcohol Testing Policy]

Resolution amending the Transportation Code to provide for adoption of a drug and alcohol testing policy for taxi drivers; to require taxi drivers to comply with that policy, which includes mandatory drug testing prior to issuance of a driver permit and upon renewal of the permit, and mandatory drug and alcohol testing after certain accidents, upon reasonable suspicion that the driver is under the influence of alcohol or drugs, prior to returning to work after a positive test result, and after return to work after a positive test result; to require taxi companies to comply with the requirements of the policy; to require SFMTA to deny or summarily suspend a driver permit upon the basis of a positive drug or alcohol test result; to require SFMTA to revoke a permit if the driver fails to satisfy return to duty requirements after a positive test result, or receives a positive test result twice within a two-year period; to bar applicants for driver permits from reapplying for a year after a positive pre-issuance drug test; to bar drivers from applying for a new driver permit for three years after revocation of the permit in connection with the drug and alcohol testing policy; to require revocation of the medallion permit of a medallion holder who has a driving requirement but does not have a valid driver permit; and to modify the eligibility requirement for a medallion to require that the applicant have complied with the full-time driving requirement for a year prior to application rather than for four of the last five years.

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

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

Section 1. Article 300 of Division II of the Transportation Code is hereby revised by amending Section 310, to read as follows:

SEC. 310. SCHEDULE OF FINES.

Violation of any of the following subsections of the San Francisco Transportation Code governing the operation of a motor vehicle for hire shall be punishable by the administrative fines set forth below.

TRANSPORTATION CODE SECTION	DESCRIPTION	FINE AMOUNT Effective July 1, 2014	FINE AMOUNT Effective July 1, 2015
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CONDITIONS APPLICABLE TO COLOR SCHEME PERMITS			
Div II § 1106(s)	Dissolution plan	\$55.00 per day	\$57.00 per day
Div II § 1106(m)	Emissions reduction	\$55.00 per day	\$57.00 per day
Div II § 1106(n)	Required postings	\$82.00	\$85.00
Div II § 1106(o)	Required notifications	\$82.00	\$85.00
Div II § 1113(d)(3)	Required PIM	\$82.00	\$85.00
Div II § 1114(e)(3)	Receipts	\$82.00	\$85.00
Div II § 1114(e)(5)	Vehicle inventory changes	\$82.00	\$85.00
Div II § 1114(e)(7)	Weekly reporting requirements	\$82.00	\$85.00
Div II § 1106(e)	Transfer of business; New location	\$272.00 per day	\$280.00 per day
Div II § 1106(k)(1)	Facility to clean vehicles	\$272.00	\$280.00
Div II § 1106(i)	Workers' Compensation	\$327.00 per day	\$337.00 per day
Div II § 1106(p)	Obligations related to Drivers	\$435.00	\$448.00
Div II § 1106(r)	Found property	\$435.00	\$448.00
Div II § 1114(e)(1)	Waybills	\$435.00	\$448.00
Div II § 1114(e)(2)	Medallion Holder files	\$435.00	\$448.00
Div II § 1114(e)(6)	Current business information	\$435.00	\$448.00
Div II § 1124(b)(5)	Retaliation re credit card processing	\$435.00	\$448.00
Div II § 1124(c)	Overcharging gate fees	\$544.00	\$561.00
Div II § 1106(c)	Use of Dispatch Service	\$489.00 per day	\$504.00 per day
Div II § 1106(d)	Business premises	\$489.00	\$504.00
Div II § 1106(h)	Staffing requirements	\$489.00	\$504.00
Div II § 1106(l)(1)-(5), (7)	Use of spare vehicles	\$489.00	\$504.00
Div II § 1106(f)	Telephone directory	\$544.00	\$561.00
Div II § 1106(j)	Paratransit Broker contract	\$544.00	\$561.00
Div II § 1114(e)(8)	Required information	\$544.00	\$561.00
Div II § 1114(e)(9)	Required information	\$544.00	\$561.00

Div II § 1106(k)(2)-(4)	Nonworking equipment	\$1,000.00	\$1,000.00
Div II § 1106(q)(4)	Driver operating under the influence	\$1,000.00	\$1,000.00
Div II § 1106(a)	Color Scheme Permit required	\$5,000.00	\$5,000.00
Div II § 1106(1)(8)	Leasing spare vehicles	\$5,000.00	\$5,000.00
CONDITIONS APPLICABLE TO DISPATCH PERMITS			
Div II § 1107(c)(1)-(4)	Dispatch service operational requirements	\$55.00 per day	\$57.00 per day
Div II § 1107(e)	Dispatch equipment requirements	\$55.00 per day	\$57.00 per day
Div II § 1114(f)(1)-(2)	Electronic trip data; Integration with ETAS	\$55.00 per day	\$57.00 per day
Div II § 1114(f)(3)	Dispatch service reports	\$82.00	\$85.00
Div II § 1107(b)-(c)	Dispatch service standards and operational requirements	\$1,000.00	\$1,000.00
Div II § 1107(d) Div II § 1114(f)(4)	Found property	\$82.00	\$85.00
Div II § 1107(c)	Workers' Compensation	\$327.00 per day	\$337.00 per day
Div II § 1107(c)(5)	Improper dispatching	\$544.00	\$561.00
Div II § 1107(c)(7)	Affiliate with e-hail application	\$544.00 per day	\$561.00 per day

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Section 2. Article 1100 of Division II of the Transportation Code is hereby revised by amending Section 1102, to read as follows:

SEC. 1102. DEFINITIONS.

For purposes of this Article the following words and phrases shall have the meanings set forth below:

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~~"Controlled Substance Testing Program" shall mean a program adopted by the SFMTA Board to comply with California Government Code Section 53075.5.~~

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"Medallion Application" shall mean the form provided by the SFMTA and completed by a Driver who wishes to purchase a Medallion.

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“Prohibited Drugs” shall mean marijuana, amphetamines, methylenedioxymethamphetamine (MDMA), methylenedioxyamphetamine (MDA), opiates, phencyclidine (PCP), and cocaine.

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“Taxi Driver Drug and Alcohol Testing Policy” shall mean the policy adopted by the SFMTA Board in compliance with California Government Code Section 53075.5, which requires that local entities regulating taxicab service adopt a mandatory drug and alcohol testing program for Taxi Drivers.

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Section 3. Article 1100 of Division II of the Transportation Code is hereby revised by amending Section 1103, to read as follows:

SEC. 1103. PERMIT APPLICATIONS AND RENEWAL.

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(c) Additional Requirements Applicable to Driver Permit Applications.

(1) Application Requirements. In addition to complying with all applicable requirements of this Section, each applicant for a Driver Permit shall:

- (A) Provide his or her fingerprints; and
- (B) Take and pass a written examination; and
- (C) Take and pass a physical examination if required by the SFMTA; and
- (D) Demonstrate that he or she has successfully completed a Driver

Training Course for new Drivers; and

(E) Provide photographs of the applicant, taken no more than 12 months prior to the time of application; and

(F) Enclose a statement of affiliation signed by the applicant and the Color Scheme documenting the Color Scheme's commitment to offer the applicant a position as a Driver if the Driver Permit is issued; and

(G) Submit to a drug test as required by the Taxi Driver Drug and Alcohol Testing Policy. ~~Reserved: Controlled Substance Testing Program.~~

(H) As required by the Taxi Driver Drug and Alcohol Testing Policy, sign a written consent to allow the SFMTA to obtain information regarding the applicant's drug and alcohol testing history for the previous two years; and .

(I) As required by the Taxi Driver Drug and Alcohol Testing Policy, disclose whether applicant has, within the prior two years, ever failed a pre-employment drug or alcohol test that resulted in the applicant not getting hired.

(2) Driver Qualifications. Each applicant for a Driver's Permit must:

(A) Be clean in dress and person;

(B) Be free of any disease, condition, infirmity, or addiction that might render the applicant unable to safely operate a motor vehicle or that otherwise poses a risk to public health and safety;

(C) Have a current California driver's license and have held a valid driver's license issued in the United States for one year immediately prior to the date of application;

(D) Have the physical capacity to operate a motor vehicle for at least four hours per day;

(E) Have no prior convictions of a crime that would, in the judgment of the SFMTA, present a risk to public safety if the permit is granted, including but not limited to convictions involving sexual assault, the use of a vehicle in the commission of a felony, fraud, violence against a person, reckless disregard for public safety, two or more recent convictions of drug-related offenses, or two or more recent convictions of driving under the influence, whether or not such convictions occurred while driving a Motor Vehicle for Hire. The SFMTA may, in its discretion, issue a permit notwithstanding prior convictions if, following review of an individual case, it determines that the applicant or Permit Holder does not pose a current risk to public safety;

(F) Have attained the age of 21;

(G) Speak; read and write the English language;

(H) Receive a negative test result on the pre-issuance drug test under the Taxi Driver Drug and Alcohol Testing Policy. ~~Reserved: Controlled Substance Testing Program.~~

(I) Have not, within the past two years, failed a pre-employment drug or alcohol test that resulted in the applicant not getting hired.

(J) Have not, within the preceding twelve months, been denied a Driver permit for failure to comply with the requirements of subsection (H) or (I), above.

(3) Renewal of Driver's Permits.

(A) Drivers have an affirmative duty to report any criminal convictions that would be a basis for denying a permit pursuant to Section 1103(c)(2)(F). The SFMTA may refuse to renew a permit if the Permit Holder would not be eligible to receive a new permit pursuant to Section 1103(c)(2)(F).

(B) The SFMTA may require Drivers to successfully complete a Driver Training Course for current Drivers as a condition of renewal of their Driver Permits.

(C) Lapse of Active Permit Status; New Application; A-Card Seniority. A Driver Permit Holder who fails to renew his or her Driver Permit within the deadline for renewal set by the SFMTA may renew his or her Driver Permit upon submission of a new Driver Permit application and completion of all requirements for a new Driver Permit. If the Driver Permit Holder submits the new Driver Permit application and completes the requirements within two years of the renewal deadline, or prior to January 1, 1995, he or she shall retain A-Card Seniority based on the original issuance date of the Driver Permit. If, on or after January 1, 1995, the Driver Permit Holder submits a new Driver Permit application and completes the requirements more than two calendar years after the renewal deadline, he or she shall have an A-Card Seniority date as of the date of the most recent Driver Permit.

(D) Every Driver must submit to a drug test as a condition of renewal of his or her A-Card as provided by the Taxi Driver Drug and Alcohol Testing Policy, and must receive a negative test result as a condition for renewal of the A-Card.

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Section 4. Article 1100 of Division II of the Transportation Code is hereby revised by amending Section 1104, to read as follows:

SEC. 1104. ELIGIBILITY.

* * * *

(c) Eligibility for a Medallion.

(1) Applicants for a Taxi or Ramp Taxi Medallion must meet the eligibility requirements listed in Section 1103(c)(2)(A) through 1103(c)(2)(H) ~~and be in compliance with any Controlled Substance Testing Program adopted by the SFMTA Board.~~

(2) Each applicant for a Taxi or Ramp Taxi Medallion shall submit all completed application materials, including paper waybills and/or electronic trip data, and take any written, oral or practical examination required by the SFMTA within 45 calendar days of the date of the notice informing the applicant of the availability of a Medallion.

(3) Before issuing a Taxi or Ramp Medallion, in addition to all other eligibility requirements, the SFMTA must determine that the applicant has been a Full-Time Driver during the twelve month period immediately preceding his or her submission of a Medallion Application to the SFMTA. ~~four of five consecutive calendar years. At the applicant's election, the five years that the SFMTA considers may be either the five full calendar years immediately preceding the hearing, or the four full calendar years immediately preceding the hearing and the partial calendar year in which the hearing is held. The Full-Time Driving requirement for the year in which the application is heard may not be pro-rated for the purpose of determining whether to grant the application.~~ This requirement of Full-time Driving for twelve months ~~four of five consecutive years~~ may only be satisfied by driving a Taxi or Ramp Taxi for which a permit has been issued by the SFMTA. Paper waybills completed in compliance with Section 1109(c)(5), electronic trip data, or other corroborating documentary evidence, may be used to establish eligibility for a Medallion for the purposes of this Section.

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Section 5. Article 1100 of Division II of the Transportation Code is hereby revised by amending Section 1106, to read as follows:

SEC. 1106. CONDITIONS APPLICABLE TO COLOR SCHEME PERMITS.

* * * *

(q) Taxi Driver Drug and Alcohol Testing Policy; Policy ~~Controlled Substance Testing Program; Controlled Substances.~~

(1) ~~Reserved: Controlled Substance Testing Program.~~ Color Schemes must comply with all relevant provisions of the Taxi Driver Drug and Alcohol Testing Policy, including but not limited to the following:

(A) Removing a Taxi Driver from his or her duties temporarily as provided by the Policy after a test demonstrating that the Taxi Driver has a confirmed alcohol concentration of greater than 0.02 and less than .04;

(B) Referring and transporting Drivers for reasonable suspicion testing in conformance with requirements of the Policy, and paying the costs of such testing;

(C) Referring and transporting Drivers for post-accident testing in conformance with the requirements of the Policy, and paying the costs of such testing;

(D) Ensuring that at least one current on-site employee has received two hours of post-accident testing training and reasonable suspicion testing training within the past twelve months. Training shall be provided by the SFMTA's contractor at the Color Scheme's expense;

(E) Providing all Drivers with educational materials provided by the SFMTA related to the Policy and materials explaining the Color Scheme's policy regarding use of drugs and alcohol; and

(F) Maintaining the confidentiality of any records related to the results of drug and alcohol tests of Drivers administered under the Policy.

(2) A Color Scheme having actual knowledge that a Driver has tested positive for drugs or alcohol under the Taxi Driver Drug and Alcohol Testing Policy ~~a controlled substance as defined in 40 Code of Federal Regulations Title 49~~ shall not permit the Driver to operate a Taxi or Ramp Taxi until such time as the Driver has been cleared to return to work by the SFMTA under the provisions of the Policy ~~tested negative.~~

(3) ~~Color Schemes shall maintain drug and alcohol free workplaces.~~

(34) No Color Scheme having actual knowledge that a Driver has used and is currently under the influence of alcohol or Prohibited Drugs ~~a intoxicating or controlled substance as defined in 49 Code of Federal Regulations Section 1308.01 et seq.~~, shall permit that Driver to operate or continue to operate a Taxi or Ramp Taxi.

(5) A Color Scheme must report to the SFMTA contact person identified in the Policy any referral of a Driver for reasonable suspicion or post-accident testing under the Policy, and must do so within eight hours of the referral.

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Section 6. Article 1100 of Division II of the Transportation Code is hereby revised by amending Section 1108, to read as follows:

SEC. 1108. CONDITIONS APPLICABLE TO DRIVER PERMITS.

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(b) Taxi Driver Alcohol and Drug Testing Policy. ~~Controlled Substances.~~

(1) Drivers must comply with all relevant provisions of the Taxi Driver Drug and Alcohol Policy, including but not limited to submitting to reasonable suspicion and post-accident drug and alcohol testing at the direction of the Color Scheme and as provided by the Taxi Driver Drug and Alcohol Testing Policy.

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

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

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Section 7. Article 1100 of Division II of the Transportation Code is hereby revised by amending Section 1118, to read as follows:

SEC. 1118. REVOCATION, SUSPENSION, AND ADMINISTRATIVE FINES.

(a) Revocation, Suspension or Administrative Fine for Cause. The SFMTA may suspend or revoke any permit issued under this Article, and may impose an administrative fine against a Permit Holder, for good cause. "Good cause" hereunder shall include, but shall not be limited to, the following:

(1) A Permit Holder failed to pay a fine imposed by the SFMTA under Section 310 of this Code within 30 days of imposition or within such other time period as determined by the agreement of the Permit Holder and the SFMTA.

(2) A Permit Holder failed to pay a permit fee within 90 days following notice of nonpayment.

(3) A Permit Holder has been convicted of any crime that would disqualify him or her from holding a permit pursuant to Section 1103(c)(2)(F), or is otherwise ineligible for a permit under Section 1104(c) or (d) of this Article.

(4) The Permit Holder has violated any statute or ordinance, including any provision of Division I or II of this San Francisco Transportation Code, governing the operation or licensing of the vehicles and services regulated by this Code.

(5) A Taxi Driver fails to comply with the requirements for return to duty under the Taxi Driver Drug and Alcohol Testing Policy within twelve months of a positive drug or alcohol test.

(6) A Taxi Driver complies with the requirements for return to duty within the twelve-month period, but fails to comply with a follow-up requirement imposed by the substance abuse professional under the terms of the Taxi Driver Drug and Alcohol Testing Policy.

(7) A Taxi Driver receives a positive test result within the meaning of the Taxi Driver Drug and Alcohol Policy for any drug or alcohol test required by the Policy twice within any two-year period.

(8) A Medallion Holder who is subject to the Full-Time Driving Requirement does not have a valid A-Card because the Driver has failed to timely renew his or her A-Card or the SFMTA has revoked the A-Card.

(b) Suspension or Revocation of More Than One Permit. Where a person violating this Article holds more than one permit to operate a Motor Vehicle for Hire in the City, the SFMTA may revoke, suspend, or decline to renew all such permits.

(c) Operation During Suspension. In the event that a Taxi or Ramp Taxi Medallion is suspended for disciplinary reasons, the Color Scheme with which it is affiliated may continue to operate the Medallion during any such period of suspension by paying a monthly fee of \$1,900 to the Driver Fund. The total of the monthly fees for the entire suspension period is due as of the 15th day following the commencement of the suspension period. If the suspended Medallion is affiliated with a Color Scheme that is on Administrative Probation upon the date that the suspension commences, the Medallion may be operated by a Color Scheme designated by the Medallion Holder from among those Color Schemes that are not on Administrative Probation and have notified the SFMTA of their willingness to operate the Medallion during the suspension period.

(d) Administrative Fines. Administrative fines imposed under this Section 1118 for violations of Article 1100 of Division II of the Transportation Code shall be consistent with Section 310 of Division II of the Transportation Code, and are not subject to adjustment by the Hearing Officer in the context of an administrative hearing conducted under Section 1120.

(e) If the Driver's A-Card permit is revoked under subsection (a)(5), (a)(6) or (a)(7), above, the SFMTA shall not accept a new application for an A-Card from the Driver for three years from the date upon which the revocation was final.

Section 8. Article 1100 of Division II of the Transportation Code is hereby revised by amending Section 1121, to read as follows:

SEC. 1121. SUMMARY SUSPENSION OF PERMIT FOR HEALTH OR SAFETY REASONS.

(a) Summary Suspension. When the SFMTA determines that an alleged permit violation poses an ongoing risk to public health or safety, the SFMTA may summarily suspend the permit pending the outcome of a hearing conducted pursuant to Section 1120. Any affected

Permit Holder shall be given a Notice of Summary Suspension, in writing, delivered to said Permit Holder in person or by first-class U.S. Mail.

(b) **Summary Suspension Hearing; Decision Following Hearing.** Any Permit Holder who wishes to challenge the summary suspension of his or her permit may request, in writing, a hearing before a Hearing Officer. A summary suspension hearing shall be conducted pursuant to Section 1120, except that upon receipt of a Permit Holder's request for a summary suspension hearing, SFMTA shall promptly set the time and place for said hearing to occur within ten business days of receipt of the Permit Holder's request for a hearing. SFMTA shall cause notice of such hearing to be delivered to the Permit Holder in person or by first-class U.S. Mail. In addition, SFMTA must provide the Respondent with the written complaint within two business days of receipt of the request for a hearing, Respondent must provide the written response, if any, no later than two business days prior to the hearing, and the Hearing Officer shall issue a written decision, which shall take effect in accordance with Section 1120(f)(2) no later than the next business day following the summary suspension hearing.

(c) **Appeal.** If the Permittee appeals a Hearing Officer's decision upholding a summary suspension to the Board of Appeals, the summary suspension shall remain in effect until a final decision is issued by the Board of Appeals. Where a permit is revoked after a summary suspension, the revocation shall be effective immediately and, if the Permittee appeals to the Board of Appeals, shall remain in effect until a final decision is issued by the Board of Appeals.

(d) **Ramp Taxis.** While a Taxi or Ramp Taxi Medallion is suspended pursuant to this Section 1121, the SFMTA may allow continued operation of the Medallion with the SFMTA's prior written approval, subject to any conditions specified in such approval.

(e) **Taxi Driver Drug and Alcohol Testing Policy.**

(1) **To protect the public health and safety, the SFMTA shall summarily suspend the A-Card of any Driver who receives a positive drug or alcohol test result within the meaning of the Policy, which includes a refusal to submit to testing as defined by the Policy.**

(2) **The SFMTA shall lift the summary suspension if:**

(A) The City's third party administrator under the Policy cancels the positive test result due to retesting requested by the Driver and performed in accordance with the requirements of the Policy;

(B) The Driver receives a negative test result after the Driver has refused to submit to testing and the third party administrator, in accordance with the terms of the Policy, directs the Driver to provide a second specimen; or

(C) The Driver completes the Policy's requirements for return to duty.

(D) A Driver who has tested positive for marijuana presents the SFMTA with a valid recommendation or approval for use of medical marijuana obtained prior to the positive test.

Section 9. Effective Date. This ordinance shall become effective 31 days after enactment. Enactment occurs when the San Francisco Municipal Transportation Agency Board of Directors approves this ordinance.

Section 10. Scope of Ordinance. In enacting this ordinance, the San Francisco Municipal Transportation Agency Board of Directors intends to amend only those words, phrases, paragraphs, subsections, sections, articles, numbers, letters, punctuation marks, charts, diagrams, or any other constituent parts of the Transportation Code that are explicitly shown in this ordinance as additions or deletions in accordance with the "Note" that appears under the official title of the ordinance.

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

By: _____
Mariam M. Morley
Deputy City Attorney

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of October 20, 2015.

Secretary to the Board of Directors
San Francisco Municipal Transportation Agency