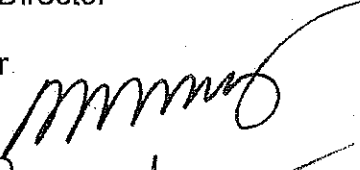
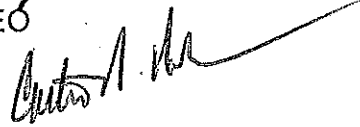


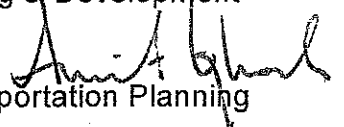
MEMORANDUM

DATE: September 10, 2009

TO: SFMTA Board of Directors
Tom Nolan, Chairman
Rev. Dr. James McCray Jr., Vice-Chairman
Cameron Beach, Director
Shirley Breyer Black, Director
Malcolm Heinicke, Director
Jerry Lee, Director
Bruce Oka, Director

THROUGH: Nathaniel P. Ford Sr. 
for Executive Director/CEO

THROUGH: Carter R. Rohan R.A. 
Senior Director
Transportation Planning & Development

FROM: Amit K. Ghosh, Ph. D. 
Deputy Director, Transportation Planning

RE: Licensing of Bicycles and Cyclists in San Francisco

This brief is prepared at the request of the San Francisco Municipal Transportation Agency Board of Directors.

Legal Authority

Bicycle licensing programs in the State of California are enacted under Section 21206 of the California Vehicle Code (CVC), which states that local authorities are not prevented from regulating the registration of bicycles provided such regulation is not in conflict with the provisions of the CVC. The regulation of bicycle licensing is further defined by Section 39000 of the CVC - Registration and Licensing of Bicycles. Full text of both sections can be found in Attachment 1.

Please note that the vehicle code sections described above pertain solely to the registration of bicycles, and the issuance of "bicycle license indicia." These indicia, akin to license plates on vehicles, are used mainly as an aid in recovering stolen bicycles and do not pertain to the actual operation of bicycles. In contrast, state code does not authorize local jurisdictions to license cyclists, the operators of bicycles.

Legal consensus, confirmed by the City Attorney, is that licensing at the local level is therefore preempted by the state and cannot legally be carried out without first amending state code.

Background

San Francisco had an inactive bicycle licensing program that was enabled by Article 5A of the 1995 San Francisco Traffic Code (Attachment 2). The project was conceived by SFPD in 1995 to deter bicycle theft but became defunct as the program failed to serve its intended purpose or be cost-effective. The program was voluntary and was separate and apart from CVC 39001 enacted programs. This provision no longer exists in the current updated San Francisco Transportation Code.

Police and Fire stations have traditionally been used as venues for bicycle licensing given their geographic distribution and capacity for administration and record keeping. However, because the modest registration fees limited by state law typically do not cover the cost of administration, and police and fire departments may not see bicycle licensing as part of their core responsibilities, many local jurisdictions have decided to forego their bicycle licensing programs or have simply stopped enforcing ordinances that require bicycles to be licensed, as is the case in Oakland, Berkeley, San Jose and Los Angeles.

Other less costly and more effective means of bicycle record storage exist to aid in recovering stolen bicycles, such as the National Bike Registry. The National Bike Registry is a national database which catalogs bicycles and their owners via individual serial numbers cast or stamped onto the frame of every bicycle. According to the Registry, approximately 350,000 bicycles are registered nationwide, and approximately 2,000 bicycles are registered in San Francisco through their services.

Opportunities & challenges to developing a local bicycle licensing program

- Offers some help in recovering stolen bicycles
- Only applies to residents; many non-resident cyclists visit San Francisco daily
- Fees set by state code make such programs largely not cost-effective
- Could serve as a disincentive to travel by bicycle
- Onerous for those with multiple bikes

Opportunities & challenges to developing a local bicyclist licensing program

- Could offer an opportunity for much-needed bicyclist education
- The City currently does not have the authority; would require state legislation to amend the CVC
- Only applies to residents; many non-resident cyclists visit San Francisco daily
- Would serve as a major disincentive to travel by bicycle
- Would face strident opposition from bicycling community
- No other such programs exist in this country
- No source of funding exists; user fees would further discourage bicycle use

Attachment 1: CVC Excerpts

Article 4 of Chapter 1 of Division 11 of the California Vehicle Code:

21206. This chapter does not prevent local authorities, by ordinance, from regulating the registration of bicycles and the parking and operation of bicycles on pedestrian or bicycle facilities, provided such regulation is not in conflict with the provisions of this code.

Article 4 of Chapter 1 of Division 16.7 of the California Vehicle Code:

39000. "Bicycle", for the purposes of this division, means any device upon which a person may ride, which is propelled by human power through a system of belts, chains, or gears having either two or three wheels (one of which is at least 20 inches in diameter) or having a frame size of at least 14 inches, or having four or more wheels.

39001. (a) The department shall procure and distribute bicycle license indicia and registration forms to all counties and cities which have adopted a bicycle licensing ordinance or resolution. Those counties and cities shall issue the indicia and registration form to the owner of any new bicycle, and may, upon request of the owner, issue an indicia and registration form to the owner of any bicycle which complies with Section 39007.

The department shall charge and collect a fee, not to exceed the cost of procuring and distributing the license indicia and registration form, for each bicycle license indicia and registration form issued. All fees collected pursuant to this section shall be deposited in the Motor Vehicle Account in the State Transportation Fund. Those fees are hereby continuously appropriated from the account for use by the department to defray costs to procure and distribute the bicycle license indicia and registration forms.

(b) The director shall design the bicycle license indicia and registration form described in subdivision (a), and shall establish procedures for the distribution of the indicia and registration form to counties and cities. The indicia shall be adhesive, durable, flexible, and of a size to permit it to be affixed to the front of the seat tube of the bicycle frame. Each indicia shall bear a unique license number and shall be permanently assigned to a bicycle. Each registration form shall comply with Section 39005.

(c) Bicycle licenses shall be renewed uniformly throughout the state on January 1 of the third year following the year of registration. Renewal of a bicycle license shall be indicated by a supplementary adhesive device affixed parallel to, and above or below, the indicia, with the expiration date showing.

39002. (a) A city or county, which adopts a bicycle licensing ordinance or resolution, may provide in the ordinance or resolution that no resident shall operate any bicycle, as specified in the ordinance, on any street, road, highway, or other public property within the jurisdiction of the city or county, as the case may be, unless the bicycle is licensed in accordance with this division.

(b) Any bicycle not licensed under this division may be additionally regulated or licensed pursuant to local ordinance or may be licensed upon request of the owner.

(c) It is unlawful for any person to tamper with, destroy, mutilate, or alter any license indicia or registration form, or to remove, alter, or mutilate the serial number, or the identifying marks of a licensing agency's identifying symbol, on any bicycle frame licensed under this division.

39003. If a city or county has or adopts a bicycle licensing ordinance or resolution, indicia and a copy of the registration form obtained from the department shall be issued to the owner by the city or county or other licensing agency designated by it.

39004. Each licensing agency, by ordinance or resolution, may adopt rules and regulations for the collection of license fees. Revenues from license fees shall be retained by the licensing city or county and shall be used for the support of such bicycle ordinance or resolution, and may be used to reimburse retailers for services rendered. In addition, fees collected shall be used to improve bicycle safety programs and establish bicycle facilities, including bicycle paths and lanes, within the limits of the jurisdiction.

The fees required to be paid pursuant to the provisions of this division are:

(a) For each new bicycle license and registration certificate, the sum shall not exceed two dollars (\$2) per year or any portion thereof.

(b) For each transfer of registration certificate, the sum shall not exceed one dollar (\$1).

(c) For each replacement of a bicycle license or registration certificate, the sum shall not exceed one dollar (\$1).

(d) For each bicycle license renewal, the sum shall not exceed one dollar (\$1) per year.

39005. Cities and counties having a bicycle licensing ordinance or resolution shall maintain records of each bicycle registered. Such records shall include, but not be limited to, the license number, the serial number of the bicycle, the make and type, of the bicycle, and the name and address of the licensee.

Records shall be maintained by the licensing agency during the period of validity of the license or until notification that the bicycle is no longer to be operated.

39006. (a) Each bicycle retailer and each bicycle dealer shall supply to each purchaser a preregistration form provided by the licensing agency and shall include, on the sales check or receipt given to the purchaser, a record of the following information: name of retailer, address of retailer, year and make of the bicycle, serial number of the bicycle if delivered to the purchaser in an assembled state, general description of the bicycle, name of purchaser, and address of purchaser. A copy of the preregistration form shall be filled out and forwarded by the purchaser to the appropriate licensing agency within 10 days from the date of sale.

(b) For the purposes of this division, a bicycle dealer is any person who sells, gives away, buys, or takes in trade for the purpose of resale, more than five bicycles in any one calendar year, whether or not such bicycles are owned by such person. "Bicycle dealer" also includes agents or employees of such person.

39007. After December 31, 1976, no bicycle retailer shall sell any new bicycle in this state unless such bicycle has legibly and permanently stamped or cast on its frame a serial number, no less than one-eighth inch in size, and unique to the particular bicycle of each manufacturer. The serial number only shall be stamped or cast in the head of the frame, either side of the seat tube, the toeplate, or the bottom sprocket (crank) housing.

39008. (a) Whenever any person sells or otherwise disposes of a bicycle, he shall endorse upon the registration certificate previously issued for such bicycle a written transfer of same, setting forth the name, address, telephone number of the transferee, date of transfer, and signature of the transferrer, and shall deliver the registration certificate, so endorsed, to the licensing agency within 10 days.

(b) Any person who purchases or otherwise acquires possession of a bicycle shall, within 10 days of taking possession, apply for the transfer of license to his own name. Cities and counties may establish rules and regulations to govern and enforce the provisions of this section.

39009. (a) Whenever the owner of a bicycle licensed pursuant to an ordinance or resolution of a city or county changes his address, he shall within 10 days notify the appropriate licensing agency of the old and new address.

(b) In the event that any bicycle license indicia or registration form issued pursuant to the provisions of this division is lost, stolen, or mutilated, the licensee of such bicycle shall immediately notify the licensing agency, and, within 10 days after such notification, shall apply to the licensing agency for a duplicate license indicia or registration form. Thereupon, the licensing agency shall issue to such licensee a replacement indicia or registration form upon payment to the licensing agency of the appropriate fee.

39011. No fine imposed for any violation of an ordinance or resolution, which is adopted pursuant to this division, shall exceed ten dollars (\$10).

39012. The licensing agency shall have the right to impound and retain possession of any bicycle in violation of the provisions of this division, and may retain possession of such bicycle until the provisions of this division are complied with. In addition, a fine may be imposed for any violation of this division pursuant to Section 39011.

Attachment 2

Section included to the 1995 San Francisco Traffic Code – Article 5A

SEC. 109.1. VOLUNTARY BICYCLE REGISTRATION PROGRAM.

- (a) Voluntary Registration. Not later than 60 days after the effective date of this ordinance, any person, including the owner of a business that rents bicycles, may register a bicycle in accordance with regulations prepared by the Chief of Police and approved by the Police Commission. Such regulations shall designate locations including commercial bicycle dealers and public events where bicycle registration may be conducted.
- (b) Registration Records. The Chief of Police shall maintain records of bicycle registration that include the bicycle serial number, the registration number, a description of the bicycle, the name, address and telephone number of the registered owner, and such other information that the Chief concludes will deter theft, impede frequency of and facilitate recovery of a stolen bicycle.
- (c) Bicycle Registration Program. When the Department takes possession of a bicycle to which the registered owner is entitled, the Department shall utilize bicycle registration records to locate the registered owner of the bicycle and notify the owner that he or she may recover the bicycle from the Department.
- (d) Bicycle Safety Education. Bicycle and public safety or other relevant educational information that has been approved by the Chief of Police and the Bicycle Advisory Committee may be distributed to bicycle registrants at the time the registration is completed.
- (e) Registration Confidentiality. The disclosure of personal information about a registered bicycle owner constitutes an unwarranted invasion of personal privacy. Such information shall not be disclosed except where necessary to the administration of the bicycle registration program and the detection of bicycle theft and the recovery of stolen bicycles.
- (f) Report of Program. The Chief of Police shall submit a quarterly report on voluntary bicycle registration to the Board of Supervisors, the Police Commission, the Parking and Traffic Commission, and the Bicycle Advisory Committee. The report shall include the following:
- (1) The total number of bicycles registered to date, and the number of all bicycle registrations completed during the quarter;
 - (2) The number of bicycles found or recovered by the Police Department during the quarter;
 - (3) The number of registered bicycles found or recovered during the quarter;
 - (4) The number of bicycles that have been reported stolen during the quarter; and
 - (5) The number of bicycles in storage at the end of the quarter, and the number of bicycles that were disposed of during the quarter by return to owner, sale, dismantling, or any other means.
- (g) Termination of Program. In the event this Article is repealed, or the bicycle registration program is otherwise suspended or terminated, the Chief of Police shall

notify all persons of such termination or suspension who have registered his or her bicycle with the previous five years. (Added by Ord. 81-95, App. 4/17/95)

SEC. 109.2. BICYCLE REGISTRATION PROGRAM—ADMINISTRATIVE FEE.

(a) Registration Fee. Upon registration of a bicycle, the Police Department shall collect a fee in the amount of \$5.00 to recover costs incurred by the Police Department in all aspects of the administration of the bicycle registration program. Such fee shall be \$5.00 and shall not exceed costs necessary to the administration of the bicycle registration program and to the promotion of safe bicycling in San Francisco. The promotion of safe bicycling in San Francisco shall include efforts by the Police Department to help bicycle owners to remember the serial numbers of their bicycles, and to encourage bicycle owners properly to lock their bicycles. The administrative costs may include, but not be limited to, supplies, computer equipment, and personnel costs. The fee shall not be subject to the reimbursement provisions of Section 10C.1 of the Administrative Code.

(b) Filing Fee. The San Francisco Police Department shall collect a fee in the amount of \$1.00 for the replacement of a bicycle registration certificate, the filing of a change of address by the registered owner, or the filing of a transfer of ownership.

(c) The fees shall be evaluated and reviewed annually pursuant to the San Francisco Administrative Code. In the event an ordinance that could repeal this Article so as to terminate or substantially diminish the protections afforded by the bicycle registration program is reintroduced before the Board of Supervisors, the Chief shall cause notice of the prepared ordinance to be mailed to all persons who have registered within the immediately preceding five years of the date of introduction of the prepared ordinance.

(d) Deposit of Revenue. The revenue received by the Police Department through the collection of the administrative fee shall be deposited with the City and County Treasurer.

(e) Administrative Regulations. Not later than 45 days after the effective date of this ordinance, the Chief of Police, upon the approval of the Police Commission and with the recommendation of the Bicycle Advisory Committee, shall establish procedures and regulations for the proper collection and administration of the fees authorized by this Article. (Added by Ord. 81-95, App. 4/17/95)

SEC. 109.3. BICYCLE REGISTRATION FUND.

(a) Establishment of Fund. There is hereby established the Bicycle Registration Fund (the "Fund") for the purpose of the deposit and the expenditure of administrative fees collected by the Police Department for the registration of bicycles pursuant to this Article.

(b) Appropriation of Funds. Subject to the budgetary, fiscal and procurement provisions of the Charter, funds shall be appropriated by the Board of Supervisors to reimburse the Police Department for the costs of departmental administration of the bicycle registration program, and for public information that is administered by the Police Department that promotes safe bicycling in San Francisco.

(c) Report of Expenditures. The Chief of Police shall submit a quarterly report to the Board of Supervisors, the Police Commission, the Parking and Traffic Commission, and the Bicycle Advisory Committee that states the expenditures from the Fund for

that quarter. The quarterly report shall state the amount of revenue deposited in the Fund, the remaining balance at the end of the quarter, and an itemization of expenditures and the purpose of each expenditure.

(d) Balance of Fund. The balance remaining in the Bicycle Registration Fund at the end of each fiscal year shall be carried forward in the Fund to the following fiscal year for the purposes provided by this Section. (Added by Ord. 81-95, App. 4/17/95)