

ORDINANCE NO. 2016-1

AN ORDINANCE OF THE SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT TO PROHIBIT PATRONS WITHIN TRAIN CARS FROM UTILIZING MORE THAN ONE SEAT DURING COMMUTE HOURS WHENEVER SUCH TRAIN CARS ARE WITHIN THE COUNTIES OF ALAMEDA, CONTRA COSTA AND THE CITY AND COUNTY OF SAN FRANCISCO.

WHEREAS, the San Francisco Bay Area Rapid Transit District has a substantial interest in promoting the comfort and safety of its patrons utilizing BART as a means of transportation; and

WHEREAS, the San Francisco Bay Area Rapid Transit District desires to make its services available to the widest ridership possible and to do so while facilitating the greatest degree of comfort possible; and

WHEREAS, ridership on BART trains has soared in recent years while the number of trains has remained largely static; and

WHEREAS, seating as many patrons as possible minimizes the likelihood of injuries that can arise when infirm or off-balance standing patrons encounter sudden stops or starts; and

WHEREAS, making seats available to as many patrons as possible also relieves crowding in train aisleways which may lead to rider fatigue, discomfort, altercations and occasionally medical emergencies; and

WHEREAS, the San Francisco Bay Area Rapid Transit District consequently has a substantial interest in prohibiting the use of the limited seating capacity of its train cars for the mere placement or storage of a patron's bags, luggage, clothing, pets and other possessions; and

WHEREAS, the payment of a fare does not entitle a patron to use more than one seat within a train car at the expense of others being forced to stand; and

WHEREAS, Public Utilities Code Section 28793 authorizes the Board to pass ordinances; and

WHEREAS, Public Utilities Code Section 28763 authorizes the Board to do any and all things necessary to carry out the purposes of the District; and

WHEREAS, the Board has determined that the adoption of this ordinance, in the absence of adequate State laws, is necessary to preserve the health and safety of BART riders;

NOW THEREFORE, be it enacted by the Board of Directors of the San Francisco Bay Area Rapid Transit District: (Public Utilities Code Section 29795)

SECTION I. Chapter 9 of the San Francisco Bay Area Rapid Transit District Ordinance Code is hereby adopted and made a law of the District as follows:

Section 9.10 Findings and declaration.

The San Francisco Bay Area Rapid Transit District Board of Directors does find that:

The heightened usage of the BART system, particularly at peak period of train service, and the delays caused by infirm patrons suffering fatigue and other ailments while riding BART justify the adoption of reasonable regulations to make every possible seat available to passengers during commute hours rather than for bags, luggage, packages and other possessions. It is hoped that this ordinance will encourage patrons to be considerate of their fellow riders and, if voluntary compliance fails, to authorize BART Police to act with the legal tools necessary to fulfill this ordinance's objectives.

Section 9.20 Definitions.

The following words and phrases, whenever used within this ordinance and this chapter, shall be construed as defined in this section:

Seat. The term "seat" as used herein references any one of the surfaces provided on BART trains to accommodate a passenger's vertical repose, normally consisting of a surface approximately 20 inches wide by 20 inches deep. The term is also inclusive of the backrest of the seating surface and handrest(s) associated with a particular seat.

Commute hours. The term "commute hours" as used herein references the weekday periods between 6:00 a.m. and 10:00 a.m., and between 3:00 p.m. and 7:30 p.m.

Section 9.30 Prohibition on the Use of more than one seat per patron.

The payment of a BART fare shall be understood to entitle each paid rider to occupy no more than one seat of the train, and the use of more than one train seat during commute hours shall subject the violator to the penalties established by this ordinance when within the BART District.

Section 9.31 Affirmative Defenses to being found in violation of this ordinance.

Those who by virtue of their soma type or physique must occupy more than one seat are exempt from the aforementioned one-fare-one seat rule. In addition, those who may suffer from medical ailments or other physical limitations that warrant the reasonable use of more than one seat shall not be deemed to be in violation of this ordinance.

Section 9.40 Limitation of Remedies.

In enacting and implementing this ordinance, the San Francisco Bay Area Rapid Transit District is only undertaking to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury.

Section 9.50 Preemption.

Nothing in this ordinance shall be interpreted or applied so as to create any power, duty or obligation in conflict with, or preempted by, any Federal or State law. Even if not preempted by Federal or State law, the provisions of this Chapter shall not apply if the Federal or State law is more restrictive toward the practices, activities and/or uses banned herein. If the Board of Directors determines that a provision included herein has become preempted by Federal or State law, that preempted provision shall be automatically rescinded from this Chapter. Such rescission shall not affect the validity of the remaining portions of this Chapter.

Section 9.60 Penalties.

Prior to any citation being issued for violation of this ordinance, a warning shall have been previously given to the subject individual. Record of the previous warning shall be retained by the Police Department.

Any person found to be in violation of any provision of this ordinance or Chapter shall be guilty of an infraction, and may be punishable by:

- (a) A fine, not exceeding one hundred dollars (\$100.00), for the first violation;
- (b) A fine, not exceeding two hundred dollars (\$200.00), for a second violation of this ordinance or Chapter within one year;
- (c) A fine, not exceeding five hundred (\$500.00), for each additional violation of this ordinance or Chapter within five (5) years.

Section 9.70 Statutory Severability.

If any section, subsection, sentence, clause or phrase of this Chapter is, for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter.

Section 9.80 Liberal Construction.

It is the intention of the Board of Directors that this Chapter shall be liberally construed to accomplish its remedial objectives and to be compatible with Federal and State enactments.

SECTION II. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional and invalid, such decision shall not affect the validity of the remaining portion of this ordinance. The Board of Directors hereby declares that it would have passed this ordinance and every section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

SECTION III. This ordinance shall be and the same is hereby declared to be in full force and effect from and after thirty (30) days after the date of its passage and shall be published once following said

passage, with the names of the Directors voting for or against the same, in a newspaper of general circulation published in the Counties of the District.

In regular session of the Board of Directors of the San Francisco Bay Area Rapid Transit District introduced on the 10th day of March, 2016, and finally passed and adopted this 14th day of April, 2016, by the following vote:

Directors:

Murray: Keller: Saltzman: Raburn: McPartland: Blalock: Mallett: Josefowitz: Radulovich:

Ayes: Keller, Blalock, Murray, McPartland and Mallett

Noes: Radulovich, Raburn, Saltzman and Josefowitz

WHEREUPON, the Chair declared the above and foregoing ordinance duly adopted and

SO ORDERED.

President, Board of Directors

ATTEST:

Ken Duron

District Secretary