

Agenda Item No.	Board Meeting Date	Open/Closed Session	Information/Action Item	Issue Date
15	12/14/15	Open	Action	11/19/15

Subject: Hold a Public Hearing and Adoption of Ordinance 15-12-01, Amending the Prohibited Acts Ordinance

ISSUE

Hold a Public Hearing and Adoption of Ordinance 15-12-01, Amending the Prohibited Acts Ordinance to Modify the Provisions Related to Penal Code Section 640.

RECOMMENDED ACTION

- A. Hold a Public Hearing Regarding the Amendment to the Prohibited Acts Ordinance; and
- B. Adopt Ordinance 15-12-01, Amending Ordinance 15-06-02, Prohibiting Specified Acts Committed In or On RT Vehicles or Facilities.

FISCAL IMPACT

None as a result of this action.

DISCUSSION

On October 26, 2015, the Board of Directors waived the first reading of an ordinance that would amend the Prohibited Acts Ordinance to make three revisions related to Penal Code Section 640, specifically:

- (1) Broaden the prohibition on sound equipment;
- (2) Make the failure to yield reserved seating a citable offense; and
- (3) Specify that possession of open containers of alcohol is prohibited in facilities and vehicles pursuant to RT’s authority to regulate eating and drinking under Penal Code Section 640.

The proposed revision expanding the prohibition against sound equipment is designed to align the Prohibited Acts Ordinance with revisions to Penal Code Section 640 recently signed into law as part of Senate Bill (SB) 413. This provision would be effective beginning on January 1, 2016. Revising the Prohibited Acts Ordinance to incorporate the broadened prohibition against sound equipment does not require a public hearing.

The prohibition of open containers of alcohol is within the existing authority provided by Penal Code Section 640 and the proposed revision is designed to remedy the incorrect placement of the provision within the Prohibited Acts Ordinance itself. This change does not require a public hearing.

Approved:

Presented:

Final 12/09/15

General Manager/CEO

Timothy Spangler, Chief Counsel

REGIONAL TRANSIT ISSUE PAPER

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The third proposed revision, also enacted by SB 413, allows transit agencies to enforce “the act of failing to yield seating reserved for an elderly or disabled person” as an infraction. However, a public hearing is statutorily required before RT can add this provision to its Prohibited Acts Ordinance.

The need for a public hearing was discussed in the body of the Issue Paper submitted in connection with the recommendation to waive the first reading of the proposed amended ordinance at the October 26, 2015, Board Meeting, but setting the hearing did not appear in the Resolution. The Board, at its November 9, 2015 meeting, set the hearing for December 14, 2015 to ensure the public an opportunity to be heard regarding the matter.

Staff is recommending that the Board take public comment on the amended Ordinance and adopt the changes as provided in the attached Ordinance.

ORDINANCE NO. 15-12-01

Adopted by the Board of Directors of the Sacramento Regional Transit District on the date of:

December 14, 2015

AMENDING ORDINANCE 15-06-02 PROHIBITING SPECIFIED ACTS COMMITTED IN OR ON RT VEHICLES OR FACILITIES

WHEREAS, pursuant to *Penal Code* Section 640, *Public Utilities Code* Sections 99170, 102107 and 102122 and *Vehicle Code* Section 21113, RT may prohibit specified acts in or on RT's vehicles and facilities; and

WHEREAS, on June 8, 2015 RT adopted Ordinance No. 15-06-02, Repealing Ordinance No. 07-06-01 and Adopting a New Ordinance Prohibiting Specified Acts Committed in or on RT Vehicles or Facilities ("Prohibited Acts Ordinance"); and

WHEREAS, this Board desires to amend Ordinance No. 15-06-02 to modify the provisions related to *Penal Code* Section 640.

NOW, THEREFORE, the Board of Directors of the Sacramento Regional Transit District do ordain as follows:

Section 1: Authority

This amendment to Ordinance 15-06-02 is adopted pursuant to *Public Utilities Code* Section 102122 and *Penal Code* Section 640.

Section 2: Prohibited Conduct

Subsection 4.A of Ordinance 15-06-02 is amended to read in its entirety as follows:

- A. Any act prohibited under *Penal Code* Section 640, including the following:
1. Eating or drinking in or on a system facility or vehicle in areas where those activities are prohibited by that system. Eating, or drinking is prohibited in a Vehicle except that a person in a Vehicle may drink a non-alcoholic beverage if that beverage is kept in a container that is designed to be spill-proof or spill-resistant when drinking from the container, and the person only drinks from the container when the spill-proof or spill-resistant feature is being used properly. Both possession and consumption of any cup, bottle, can or other receptacle containing any Alcoholic Beverage that has been opened, or a seal broken, or the contents of which have been partially removed, are prohibited in Facilities and Vehicles.
 2. Playing unreasonably loud sound equipment on or in a system facility or vehicle, or failing to comply with the warning of a transit official related to disturbing another person by loud or unreasonable noise.

3. Smoking in or on a system facility or vehicle in areas where those activities are prohibited by that system. Smoking is prohibited in all Vehicles and within any Facility where a “no smoking” sign is posted. Signs are posted at entrances to stations (where there is a logical or natural entrance) and near other signs identifying Rules and Laws for using the transit system.
4. Expectorating upon a system facility or vehicle.
5. Skateboarding, roller skating, Bicycle riding, roller blading, or operating a motorized scooter or similar device, as defined in Section 407.5 of the Vehicle Code in a system facility, vehicle, or parking structure. This paragraph does not apply to an activity that is necessary for utilization of the transit facility by a bicyclist, including, but not limited to, an activity that is necessary for parking a Bicycle or transporting a Bicycle aboard a transit vehicle, if that activity is conducted with the permission of the transit agency in a manner that does not interfere with the safety of the bicyclist or other patrons of the transit facility.
6. Sale or peddling of any goods, merchandise, property, or services of any kind whatsoever on the facilities, vehicles, or property of the public transportation system, if the public transportation system has prohibited those acts and neither the public transportation system nor its duly authorized representatives have granted written consent to engage in those acts.
7. Evasion of the payment of a fare of the system. For purposes of this section, fare evasion includes entering an enclosed area of a public transit facility beyond posted signs prohibiting entrance without obtaining valid fare, in addition to entering a transit vehicle without valid fare.
8. Misuse of a transfer, pass, ticket, or token with the intent to evade the payment of a fare.
9. Unauthorized use of a discount ticket or failure to present, upon request from a transit system representative, acceptable proof of eligibility to use a discount ticket, in accordance with Section 99155 of the Public Utilities Code and posted system identification policies when entering or exiting a transit station or vehicle. Acceptable proof of eligibility must be clearly defined in the posting. In the event that an eligible discount ticket user is not in possession of acceptable proof at the time of request, any citation issued shall be held for a period of 72 hours to allow the user to produce acceptable proof. If the proof is provided, the citation shall be voided. If the proof is not produced within that time period, the citation shall be processed.
10. Willfully disturbing others on or in a system facility or vehicle by engaging in boisterous or unruly behavior.
11. Carrying an explosive, acid, or flammable liquid in a public transit facility or vehicle.

12. Urinating or defecating in a system facility or vehicle, except in a lavatory. However, this paragraph shall not apply to a person who cannot comply with this paragraph as a result of a disability, age, or a medical condition.
13. Willfully blocking the free movement of another person in a system facility or vehicle. This paragraph shall not be interpreted to affect any lawful activities permitted or First Amendment rights protected under the laws of this state or applicable federal law, including, but not limited to, laws related to collective bargaining, labor relations, or labor disputes.
14. Willfully tampering with, removing, displacing, injuring, or destroying any part of any facility or vehicle of a public transportation system.
15. Failing to yield seating reserved for an elderly or disabled person.

Subsections 4.C.6.b and 4.C.6.f of Ordinance 15-06-02 are hereby deleted; the remaining sections and section numbering are unaffected by this deletion.

Section 3: Severability

This Ordinance shall be liberally construed to effectuate its purposes. The provisions of this Ordinance are severable. If any of the provisions, clauses, sentences, sections, subsections, words, or portions thereof is held illegal, invalid, unconstitutional, or inapplicable to any person or circumstance, such portion shall be deemed, to the maximum extent possible, a separate, distinct, and independent provision, so that such illegality, invalidity, unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, sections, subsections, words or portions of this Ordinance or their application to other persons or circumstances. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, the invalidity shall not affect the remaining portions of this Ordinance.

Section 4: Effective Date

This Ordinance will become effective 30 days after the date of its passage.

Section 5: Ordinance Publication

Within 15 calendar days after adoption, the Secretary is hereby directed to publish this Ordinance in full in a newspaper of general circulation published within RT's activated boundaries.

Passed and adopted at a regular meeting of the Sacramento Regional Transit District on the 14th of December, 2015 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

JAY SCHENIRER, Chair

A T T E S T:

MICHAEL R. WILEY, Secretary

By: _____
CINDY BROOKS, Assistant Secretary