

(O-91-88)

ORDINANCE NUMBER O- 17579 (NEW SERIES)

ADOPTED ON JAN 09 1991

AN ORDINANCE AMENDING ORDINANCE NO. O-17509 (NEW SERIES) ADOPTED AUGUST 6, 1990, AS AMENDED BY ORDINANCE NO. O-17524 (NEW SERIES), ADOPTED SEPTEMBER 10, 1990, WHICH AMENDED CHAPTER III OF THE SAN DIEGO MUNICIPAL CODE BY ADDING ARTICLE 8, SECTIONS 38.0101, 38.0102, 38.0103, 38.0111, 38.0112, 38.0113, 38.0114, 38.0115, 38.0116, 38.0117, 38.0118, 38.0121, 38.0122, 38.0123, 38.0124, 38.0127, 38.0128, 38.0136, 38.0137 AND 38.0138, ESTABLISHING A TRANSIENT TRANSPORTATION TAX.

WHEREAS, by Ordinance No. O-17509 (New Series), adopted August 6, 1990, and effective September 6, 1990, this City Council established a transient transportation tax, the proceeds of which are to be deposited to the general fund; and

WHEREAS, said tax is deemed to be in the nature of an impact fee for the additional impacts of transient vehicles on City services and facilities; and

WHEREAS, the State Board of Equalization had preliminarily concluded that said tax may be more in the nature of a sales tax, the collection of which may contravene the provisions of the Bradley-Burns Act, Revenue and Taxation Code section 7203.5, which would thereby cause that portion of City sales tax revenues collected by the State to be subvented to the County and not be remitted to the City; and

WHEREAS, the State Board of Equalization submitted its ruling to the State Attorney General for review, which review is currently pending; and

WHEREAS, the City Council enacted Emergency Ordinance No. O-17524 (New Series) to amend Ordinance No. O-17509 (New Series) to delay imposition and collection of the transient transportation tax until January 1, 1991; and

WHEREAS, the Bradley-Burns Act will not apply to prevent the loss of revenue to the City for any period when such tax is not collected; and

WHEREAS, the City Council of The City of San Diego deems it essential to continue to defer imposition and collection of the Transient Transportation Tax until this issue is resolved; NOW, THEREFORE,

BE IT ORDAINED, by the Council of The City of San Diego, as follows:

Section 1. That the provisions of Section 2 of Ordinance No. O-17509 (New Series), adopted August 6, 1990, shall be amended to read as follows:

Section 2. This ordinance shall take effect and be in force on January 1, 1991, or on the thirtieth day from and after its passage, whichever is later, provided that the State Board of Equalization shall have determined that the provisions of Ordinance No. O-17509 (New Series) do not violate the Bradley-Burns Act, Revenue and Taxation Code section 7203.5. In the event such determination is not made as of that date, then this ordinance shall not take effect until such

determination is made and the City Attorney advises the City Council that it will be legally permissible to impose and collect such tax and the Council then ratifies such determination by appropriate action.

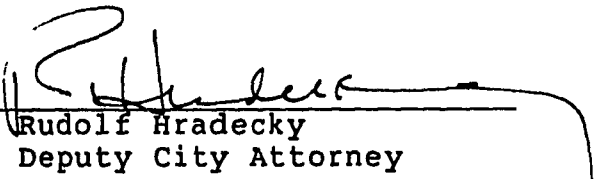
Section 2. The imposition of any tax adopted by Ordinance No. O-17509 (New Series) and its collection between the dates of September 6, 1990, and the date this ordinance is made effective pursuant to Section 1 is hereby waived and shall not be collected.

Section 3. This ordinance shall take effect and be in force thirty days from and after its passage.

Section 4. The City Clerk shall cause a copy of this ordinance to be inserted as a note to the provisions of Chapter III, Article 8, of the San Diego Municipal Code, when printed.

APPROVED: JOHN W. WITT, City Attorney

BY

  
Rudolf Hradecky  
Deputy City Attorney

RH:ps  
11/27/90  
Or.Dept:Fin.Mgmt.  
O-91-88  
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#1724

Passed and adopted by the Council of The City of San Diego on JAN 0 9 1991  
by the following vote:

| Council Members        | Yeas                                | Nays                     | Not Present                         | Ineligible               |
|------------------------|-------------------------------------|--------------------------|-------------------------------------|--------------------------|
| Abbe Wolfsheimer       | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |
| Ron Roberts            | <input type="checkbox"/>            | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| John Hartley           | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |
| H. Wes Pratt           | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |
| Linda Bernhardt        | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |
| J. Bruce Henderson     | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |
| Judy McCarty           | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |
| Bob Filner             | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |
| Mayor Maureen O'Connor | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input type="checkbox"/> |

AUTHENTICATED BY:

MAUREEN O'CONNOR

Mayor of The City of San Diego, California.

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California.

(Seal)

By Linda Legano, Deputy.

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

**DEC 1 0 1990**

**JAN 0 9 1991**

~~I FURTHER CERTIFY that said ordinance was read in full prior to its final passage.~~

I FURTHER CERTIFY that the reading of said ordinance in full was dispensed with by a vote of not less than a majority of the members elected to the Council, and that there was available for the consideration of each member of the Council and the public prior to the day of its passage a written or printed copy of said ordinance.

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California.

(Seal)

By Linda Legano, Deputy.

Office of the City Clerk, San Diego, California

Ordinance **0-17579**

Number ..... Adopted.....

**JAN 0 9 1991**

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CITY CLERKS OFFICE  
SAN DIEGO, CA