

Public Comment

Council File: 13-1493

Title: Street Vending / Special Sidewalk
Vending District Program

Attached is the California Senate Bill 946
(2018-2019).

Sincerely,

By: Los Angeles Stakeholder

BY _____
DEPUTY

CITY CLERK

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CITY CLERK'S OFFICE

Introduced by Senator LaraJanuary 29, 2018

An act to add Article 3.5 (commencing with Section 21150) to Chapter 1 of Division 11 of the Vehicle Code, relating to sidewalk vendors.

LEGISLATIVE COUNSEL'S DIGEST

SB 946, as introduced, Lara. Sidewalk vendors.

Existing law authorizes a local authority, by ordinance or resolution, to adopt requirements for the public safety regulating any type of vending from a vehicle upon a street. Existing law additionally authorizes a local authority, by ordinance or resolution, to adopt requirements regulating the time, place, and manner of vending from a vehicle upon a street.

This bill would prohibit a local authority from adopting rules or regulations, by ordinance or resolution, that regulate or prohibit sidewalk vendors, as defined, unless it first adopts a sidewalk vending licensing program that requires a sidewalk vendor to obtain a license from the local authority before selling food or merchandise. The bill would require a local authority that elects to adopt a sidewalk vending licensing program to, among other things, not restrict the location of a licensed sidewalk vendor unless the restriction is directly related to objective health, safety, or welfare concerns, and not unreasonably restrict sidewalk vendors to operate only in a designated neighborhood or area. The bill would authorize a local authority that elects to adopt a sidewalk vending licensing program to, by ordinance or resolution, adopt additional requirements regulating the time, place, and manner of sidewalk vending. The bill would prohibit a sidewalk vendor from violating the terms of a local authority's sidewalk vending licensing

program or operating without a license, as specified. A violation would be punishable by an administrative fine, as specified, and proceeds would be deposited in the treasury of the local authority.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. (a) The Legislature finds and declares all of the
2 following:

3 (1) Sidewalk vending provides important entrepreneurship and
4 economic development opportunities to low-income and immigrant
5 communities.

6 (2) Sidewalk vending increases access to desired goods, such
7 as culturally significant food and merchandise.

8 (3) Sidewalk vending contributes to a safe and dynamic public
9 space.

10 (4) The safety and welfare of the general public is promoted by
11 encouraging local authorities to support and properly regulate
12 sidewalk vending.

13 (5) The safety and welfare of the general public is promoted by
14 prohibiting criminal penalties for violations of sidewalk vending
15 ordinances and regulations.

16 (b) It is the intent of the Legislature to promote entrepreneurship
17 and support immigrant and low-income communities.

18 SEC. 2. Article 3.5 (commencing with Section 21150) is added
19 to Chapter 1 of Division 11 of the Vehicle Code, to read:

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Article 3.5. Sidewalk Vendors

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23 21150. For purposes of this article, "sidewalk vendor" is a
24 person who sells food or merchandise from a pushcart, stand,
25 display, pedal-driven cart, wagon, showcase, rack, or other
26 nonmotorized conveyance upon a public sidewalk or other
27 pedestrian path.

28 21151. A local authority shall not adopt rules or regulations
29 by ordinance or resolution that regulate or prohibit sidewalk
30 vendors unless it first adopts a sidewalk vending licensing program
31 that complies with Section 21152.

1 21152. (a) A local authority may adopt a sidewalk vending
2 licensing program that requires a sidewalk vendor to obtain a
3 license from the local authority before he or she is authorized to
4 sell food or merchandise.

5 (b) A local authority's licensing system shall comply with all
6 of the following standards:

7 (1) A local authority shall not restrict the location of a licensed
8 sidewalk vendor unless the restriction is directly related to objective
9 health, safety, or welfare concerns. For purposes of this paragraph,
10 perceived community animus or economic competition does not
11 constitute an objective health, safety, or welfare concern.

12 (2) A local authority shall not prohibit a licensed sidewalk
13 vendor from selling food or merchandise in a park.

14 (3) A local authority shall not require a licensed sidewalk vendor
15 to first obtain the consent or approval of any nongovernmental
16 entity or individual before he or she can sell food or merchandise.

17 (4) A local authority shall not unreasonably restrict sidewalk
18 vendors to operate only in a designated neighborhood or area.

19 (5) A local authority shall not restrict the overall number of
20 sidewalk vendor licenses issued unless the restriction is directly
21 related to objective health, safety, or welfare concerns.

22 (c) A local authority may, by ordinance or resolution, adopt
23 additional requirements regulating the time, place, and manner of
24 sidewalk vending.

25 21153. (a) A person shall not operate as an unlicensed sidewalk
26 vendor in an area within the jurisdiction of a local authority that
27 has adopted a sidewalk vending licensing program that complies
28 with Section 21152.

29 (b) A licensed sidewalk vendor shall not violate the terms of a
30 local authority's sidewalk vending licensing program that complies
31 with Section 21152.

32 (c) A violation of subdivision (a) or (b) is punishable by the
33 following:

34 (1) An administrative fine not exceeding one hundred dollars
35 (\$100) for a first violation.

36 (2) An administrative fine not exceeding two hundred dollars
37 (\$200) for a second violation within one year of the first violation.

38 (3) An administrative fine not exceeding five hundred dollars
39 (\$500) for each additional violation within one year of the first
40 violation.

1 (d) The proceeds of an administrative fine assessed pursuant to
2 subdivision (c) shall be deposited in the treasury of the local
3 authority.

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State lawmaker wades into fight on street sellers

Street vending bill could give cities less clout

Bill could undercut Los Angeles and other cities' abilities to regulate vendors.

By Emily Alpert Reyes

Los Angeles lawmakers have wrestled for years with how to legalize and regulate the vendors who sell food and goods on the city's sidewalks.

Now a state legislator is championing a bill that could take some of those decisions out of the city's hands. Under a proposal from Sen. Ricardo Lara (D-Bell Gardens), California cities would not be able to regulate or ban vendors unless they have a licensing system that meets several requirements.

Cities could not bar vending in parks. They could not limit where vendors can do business or cap their numbers unless the rules were tied to "objective health, safety or welfare concerns."

And they could not require vendors to get permission from brick-and-mortar shops next door — an idea that L.A. lawmakers have been weighing as they try to hammer out city regulations.

The proposed law would, in effect, clear the way for sidewalk vendors in any California city that does not have a licensing system.

That means that if Los Angeles continues to drag its feet on passing new regulations, it could be overridden by the state rules. Los Angeles stripped away criminal penalties for many vending violations last year, aiming to protect immigrant vendors after President Trump took office.

But the city has yet to approve a licensing system, more than four years after Councilmen Jose Huizar and Curren Price first proposed that L.A. legalize vending. As the City Council has grappled with how to regulate sidewalk sellers, vendors are still being fined for violating the municipal code.

"I question the will of the ... cities to actually do something about this issue," Lara told reporters, when asked why the state should step in and override local lawmakers.

“It’s not fair to say, ‘We’re going to create a process, we’re going to decriminalize it,’ but yet not move,” he added.

Beyond Los Angeles, the bill would also allow vending in California cities that have never considered permitting it at all. The proposed law, SB 946, would also insist on administrative fines for vendors who break local rules, rather than criminal charges that could ramp up the risk of deportation for immigrant vendors.

At a news conference Friday on the steps of Los Angeles City Hall, Rosalva Flores lamented that her cousin Marcelina Rios was in an immigration detention center, separated from her children, after being cited for vending in Rancho Cucamonga.

Rios was charged with a misdemeanor after repeated citations before being taken into federal custody, according to the Inland Valley Daily Bulletin.

“Her only crime is selling corn,” Flores said in Spanish.

Lara said he hoped the bill would spur Los Angeles and other cities to start licensing vendors in a “reasonable” manner. “The fact is that these sidewalk vendors are here. You can’t deny that they exist. You can’t deny that there’s a demand for them.... We want to make sure they can operate,” the senator said in an interview.

Although L.A. has pledged to legalize vending, Dennis Gleason, policy director for City Councilman Joe Buscaino, said the councilman was leery of “a top-down approach from Sacramento.”

In Los Angeles, brick-and-mortar businesses have been worried about how legalizing vending will affect them, raising concerns about trash, blocked walkways and what they see as unfair competition from vendors. Buscaino has backed the idea of requiring vendors to get permission from neighboring properties in order to avoid “antagonistic relationships,” Gleason said.

Valley VOTE, a San Fernando Valley community group that wants neighborhoods to be able to ban vending, called the bill “an example of political hubris.”

“Lara should devote his attention to issues that affect the state as a whole and not attempt to micromanage local concerns,” said David DeVoss, one of the group’s directors.

Lara countered that his bill sets parameters around local regulations, but cities would still have flexibility to craft their own rules based on health and safety concerns. Representatives for several other L.A. council members said they were still reviewing the bill.

“We normally don’t like state legislation that restricts what we can do, but in this case, it might be good to have a state standard,” said Rick Coca, spokesman for Huizar, who has publicly pushed to legalize vending in Los Angeles.

It is unclear what would happen under the proposed law to cities that already have licensing rules that require vendors to get permission from businesses.

Lara was unable to clarify this week whether the state law would force such cities to toss out all of their vending regulations or simply override the conflicting sections.

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STATE SENATOR FROM CALIFORNIA'S 33RD DISTRICT

Published on *Senator Ricardo Lara* (<http://sd33.senate.ca.gov>) (<http://sd33.senate.ca.gov>)

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January 31, 2018

SACRAMENTO, CA – Sidewalk vendors are a fixture in California’s communities and a part of vibrant food cultures. But outdated laws expose these entrepreneurs to harassment, criminal prosecution, and even deportation.

The Safe Sidewalk Vending Act, Senate Bill 946 (http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180SB946), prohibits making street vending a crime and allows local governments to regulate vendors if they create a permit process.

With Immigration and Customs Enforcement threatening to deport any undocumented immigrant, sidewalk vendors are more vulnerable than ever.

Sidewalk vendors are a visible part of our communities and that makes them vulnerable to extortion, crime, prosecution, or even deportation under Trump’s indiscriminate regime,” said Senator Ricardo Lara. “Many restaurant owners got their start as sidewalk vendors, and the Safe Sidewalk Vending Act protects the women, seniors and immigrant entrepreneurs who are an asset to California’s economy. Opportunity is not a crime.”

A recent survey of Los Angeles vendors found that 80% are women and many are seniors. Harassment or arrests of vendors strikes at families and at those on fixed incomes.

Last year ICE agents detained a sidewalk vendor (<https://www.dailybulletin.com/2017/10/23/street-vendor-facing-deportation-after-rancho-cucamonga-arrest/>) and mother of four in Rancho Cucamonga after she was arrested for selling corn.

Sidewalk vendors use pushcarts, pedicarts, or other non-motorized vehicles on sidewalks and parks.

Sidewalk vendors have reported arrests and confiscation of property by local authorities. Undocumented immigrant sellers are particularly at risk.

Los Angeles is the latest California city to move toward permitting street vending. The Los Angeles City Council voted last year to end criminal penalties and is in the process of creating a permit system.

The Safe Sidewalk Vending Act not only protects vendors, it also allows cities to permit vending and collect reasonable fees from vendors to support health and safety inspections.

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