

**REPORT OF THE
CHIEF LEGISLATIVE ANALYST**

DATE: June 30, 2015

TO: Honorable Members of the Rules, Elections and Intergovernmental Relations Committee

FROM: Sharon M. Tso^{TL}
Chief Legislative Analyst

Council File No.: 15-0002-S67
Assignment No. : 15-06-0513

SUBJECT: Resolution (Blumenfield - Englander) to oppose Assembly Bill 718 (Chu) unless amended, which would prohibit a legislative body from prohibiting or subjecting to penalties, or removing a vehicle by the act of sleeping in a lawfully parked motor vehicle, and support if amended to allow sleeping in a motor vehicle by permit.

CLA RECOMMENDATION: Adopt the attached Resolution (Blumenfield - Englander).

SUMMARY

The Resolution (Blumenfield - Englander), introduced June 19, 2015, points to the Los Angeles Homeless Services Authority (LAHSA) Homeless Count's findings that the number of homeless persons in the City has increased by 12% and the number of tents, makeshift shelters, and vehicles increased by 85% since the 2013 count. It notes the City's recent formation of an Ad Hoc Committee on Homelessness and that the City has also undertaken a number of initiatives to develop a comprehensive strategy to address homelessness.

The Resolution states that pending in the Assembly is AB 718 (Chu) which would prohibit a legislative body of a city or county from prohibiting or subjecting to penalties, or removing and impounding a motor vehicle by reason of sleeping or resting in lawfully parked motor vehicle. It notes that the language in the legislation declares that this measure addresses health and safety of homeless individuals, therefore applies to charter cities and counties. It further notes that the City should oppose legislation that eliminates local oversight and control over regulations that best fit neighborhoods and take into account the context of local plans to address homelessness and other mandates.

Finally, the Resolution asserts that the City should seek amendments to AB 718 (Chu) to allow a permit process by which legislative bodies can regulate sleeping in vehicles at a local level. Therefore, the Resolution recommends that the City oppose Assembly Bill 718 (Chu) unless amended, which would prohibit a legislative body of a city or county from prohibiting or subjecting to penalties, or removing a vehicle by reason of, the act of sleeping or resting in a lawfully parked motor vehicle, and support for Assembly Bill 718 (Chu) if amended to allow sleeping in a vehicle by permit

BACKGROUND

Programs that regulate sleeping in vehicles have been implemented at the local level in other jurisdictions. In Ventura, the city adopted a pilot program that allows eligible participants to sleep in their vehicles in designated parking lots up to 90 days, as they seek more permanent housing. Launched in 2009, Safe Sleep Ventura, is administered by the Ventura Salvation Army in partnership with the city. Two churches provide parking lots which can serve a limited number of vehicles at a time and the city has allocated funds for the program. The city's website notes that the program provides short-term accommodations for about 20 screened families and individuals, by letting them sleep in their cars in lots that provide access to bathrooms and assistance in getting jobs and housing.

Similar models exist in Santa Barbara and Eugene, Colorado. Santa Barbara's Safe Parking Program is similar to Ventura's, although it does not impose a time limit for participants. Eligible persons or families must be registered with the New Beginnings program, which provides social services and case management. New Beginnings has operated the program since 2004, in collaboration with local churches, businesses and government and non-profit entities. The New Beginnings website notes that the program operates 115 safe overnight parking spaces and in 2010-11, the program served over 800 people. Eugene's Homeless Car Camping Program, provides linkages to programs such as the Overnight Parking Program (OPP), operated by St. Vincent de Paul, which provides camping, free garbage disposal and portable restrooms to homeless families and individuals living in their vehicles. OPP participating sites include churches, businesses, and government or non-profit offices.

Council Actions

In 2008, a Council Motion (Rosendahl – Zine) requested the City Attorney draft an amendment to L.A.M.C. Section 85.02, "modeled after the Santa Barbara and Eugene initiatives, creating a provision for councilmembers to designate discrete and distinct areas of their council districts where people would be allowed to park and sleep overnight" (CF No. 08-3125. In 2011, the Transportation Committee continued the item and in 2013, the file expired.

In June 2014, the 9th Circuit Court of Appeals ruled in *Desertrain v. City of Los Angeles* that the City's ordinance prohibiting people from living in vehicles was unconstitutionally vague. L.A.M.C. Section 85.02 states, "No person shall use a vehicle parked or standing upon any City street or upon any parking lot owned by the City of Los Angeles and under the control of the City of Los Angeles or under control of the Los Angeles County Department of Beaches and Harbors as living quarters either overnight, day-by-day, or otherwise."

In July 2014, a Council Motion (Bonin – Wesson) referenced the *Desertrain* ruling and requested the City Attorney to report to Council, in closed session, on legal options available to "protect residential neighborhoods from becoming campgrounds without criminalizing homelessness and violating the constitutional rights of the unhoused" (CF No. 14-1057). The Office of the City Attorney submitted a report (dated March 26, 2015) relative to draft alternate ordinances amending Municipal Code Section 85.02. In June 2015, Council File No. 14-1057 was referred to the newly created Ad Hoc Committee on Homelessness. The Ad Hoc Committee on Homelessness has been tasked with developing preventive measures and policies that will be implemented as part of the

overall comprehensive strategy to address homelessness throughout the City. The committee's charge includes undertaking a comprehensive review of the current state of funding, governmental structure, policies and programs as it shapes its overall plan to ensure proper housing services for its residents.

Support and Opposition

The "Assembly Committee on Local Government Analysis" notes arguments in support of AB 718, stating that "Tragically, an increasing number of local jurisdictions have enacted ordinances that punish people for the mere fact that they sleep in a vehicle." It is further argued that vehicles afford a sense of safety and in addition to shelter, provide access to employment, healthcare and education. Opponents argue "This bill is a preemption of local authority to regulate and enforce laws governing the use of public and private space. Local ordinances arise and are adopted by communities to address specific issues affecting health, safety, and broader public welfare."

Conclusion

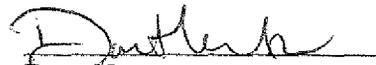
Opposition to AB 718 unless amended, and support for AB 718 if amended to allow sleeping in a vehicle by permit would be consistent with the City's past support to maintain local authority over regulations and laws governing the local use of public and private space and on-going support for resources to assist the homeless population in the City.

DEPARTMENTS NOTIFIED

Los Angeles Police Department
Office of the City Attorney

BILL STATUS

06/16/15	In Committee: Hearing postponed by committee.
06/11/15	Referred to Com. on GOV. & F.
06/01/15	In Senate. Read first time. To Com. on RLS. for assignment.
06/01/15	Read third time. Passed. Ordered to the Senate.


Dora Huerta
Analyst

Attachment: Resolution (Blumenfield - Huizar)
Assembly Bill 718

RESOLUTION

WHEREAS, an official position of the City of Los Angeles with respect to legislation, rules, regulations or policies, proposed to or pending before a local, state or federal government body or agency, must have first been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, the findings from the 2015 Los Angeles Homeless Services Authority (LAHSA) Homeless Count reveal that the number of homeless persons in the City has increased by 12% and the number of tents, makeshift shelters, and vehicles increased by 85% from the previous Homeless Count in 2013; and

WHEREAS, the City has formed an Ad Hoc Committee on Homelessness and is currently undertaking a number of initiatives to develop a comprehensive strategy to address homelessness; and

WHEREAS, currently pending in the Assembly is AB 718 (Chu), which would prohibit a legislative body of a city, county or city and county from prohibiting or subjecting to penalties, or removing and impounding a motor vehicle by reason of sleeping or resting in lawfully parked motor vehicle; and

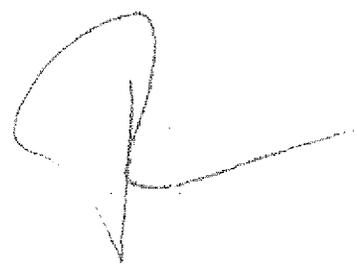
WHEREAS, AB 718 (Chu) declares that this measure addresses health and safety of homeless individuals, and therefore apply to charter cities and counties; and

WHEREAS, the City of Los Angeles should oppose legislation that eliminates local oversight and control over regulations that best fit the neighborhood character and take into account the context of local plans to address homelessness and other mandates; and

WHEREAS, the City should seek amendments to AB 718 (Chu) to allow a permit process by which legislative bodies can regulate sleeping in vehicles at a local level;

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by adoption of this Resolution, the City of Los Angeles hereby includes in its 2015 - 2016 State Legislative Program OPPOSITION to Assembly Bill 718 (Chu) UNLESS AMENDED, which would prohibit a legislative body of a city or county from prohibiting or subjecting to penalties, or removing a vehicle by reason of, the act of sleeping or resting in a lawfully parked motor vehicle, AND SUPPORT for Assembly Bill 718 (Chu) IF AMENDED to allow sleeping in a vehicle by permit.

APR 19 2015



PRESENTED BY: 
BOB BLUMENFELD
Councilmember, 3rd District

SECONDED BY: 

AMENDED IN ASSEMBLY MAY 18, 2015
AMENDED IN ASSEMBLY APRIL 21, 2015
AMENDED IN ASSEMBLY MARCH 26, 2015
CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 718

**Introduced by Assembly Member Chu
(Coauthor: Assembly Member Gonzalez)**

February 25, 2015

An act to add Section 50034 to the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 718, as amended, Chu. Local government: powers.

Existing law authorizes the legislative body of a city or county to pass ordinances not in conflict with state or federal law and the state or federal constitution.

This bill would prohibit the legislative body of a city, county, or city and county from ~~prohibiting~~, *prohibiting* or otherwise subjecting to civil or criminal penalties, *or removing or impounding a motor vehicle by reason of*, the act of sleeping or resting in a lawfully parked motor vehicle. *The bill would also find and declare that the provisions of the bill address the health and safety of homeless individuals, a matter of statewide concern, and that therefore, they apply to charter cities, charter counties, and charter cities and counties.*

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. *The Legislature finds and declares that the*
2 *provisions of this measure address the health and safety of*
3 *homeless individuals, a matter of statewide concern, and that*
4 *therefore, they apply to charter cities, charter counties, and charter*
5 *cities and counties.*

6 ~~SECTION 1.~~

7 SEC. 2. Section 50034 is added to the Government Code, to
8 read:

9 50034. The legislative body of a city, county, or city and county
10 shall not ~~prohibit~~, *prohibit* or otherwise subject to civil or criminal
11 penalties, *or remove and impound a motor vehicle by reason of,*
12 the act of sleeping or resting in a lawfully parked motor vehicle.