

SB 946 (Lara) Street Vending

Bill Summary:

This measure would prohibit a local authority from adopting rules or regulations, by ordinance or resolution, that regulate or prohibit sidewalk vendors unless it first adopts a sidewalk vending licensing program.

Bill Description:

Specifically, SB 946 allows a local authority to adopt a sidewalk vending licensing program that requires a sidewalk vendor to obtain a license from the local authority before he or she is authorized to sell food or merchandise.

The local authority's licensing system shall comply with all of the following standards:

- A local authority shall not restrict the location of a licensed sidewalk vendor unless the restriction is directly related to objective health, safety, or welfare concerns.
- A local authority shall not prohibit a sidewalk vendor from selling food or merchandise in a park owned or operated by the local authority, except the local authority may prohibit stationary sidewalk vendors from vending in the park only if the operator of the park has signed an agreement for concessions that exclusively permits the sale of food or merchandise by the concessionaire.
- A local authority may adopt additional requirements regulating the time, place, and manner of sidewalk vending in a park owned or operated by the local authority if the requirements are any of the following:
 - Directly related to objective health, safety, or welfare concerns.
 - Necessary to ensure the public's use and enjoyment of natural resources and recreational opportunities.
 - Necessary to prevent an undue concentration of commercial activity that unreasonably interferes with the scenic and natural character of the park.
- A local authority shall not require a licensed sidewalk vendor to first obtain the consent or approval of any nongovernmental entity or individual before he or she can sell food or merchandise.
- A local authority shall not restrict sidewalk vendors to operate only in a designated neighborhood or area, except when that restriction is directly related to objective health, safety, or welfare concerns.
- A local authority may prohibit stationary sidewalk vendors in areas that are zoned exclusively residential, but shall not prohibit roaming sidewalk vendors.
- A local authority may prohibit sidewalk vendors in areas located within the immediate vicinity of a permitted certified farmers' market or a permitted swap meet during the limited operating hours of that certified farmers' market or swap meet.
- A local authority may restrict or prohibit sidewalk vendors within the immediate vicinity of an area designated for a temporary special permit issued by the local authority, provided that any notice, business interruption mitigation, or other rights provided to affected businesses or property owners under the local

authority's temporary special permit are also provided to any sidewalk vendors specifically permitted to operate in the area, if applicable.

- A local authority shall not restrict the overall number of sidewalk vendor licenses issued unless the restriction is directly related to objective health, safety, or welfare concerns.
- Perceived community animus or economic competition does not constitute an objective health, safety, or welfare concern.
- A local authority may, by ordinance or resolution, adopt additional requirements regulating the time, place, and manner of sidewalk vending if the requirements are directly related to objective health, safety, or welfare concerns, including, but not limited to, any of the following:
 - Limitations on hours of operation that are not unduly restrictive. In nonresidential areas, any limitations on the hours of operation for sidewalk vending shall not be more restrictive than any limitations on hours of operation imposed on other businesses or uses on the same street.
 - Requirements to maintain sanitary conditions.
 - Requirements necessary to ensure compliance with the federal Americans with Disabilities Act of 1990 (Public Law 101-336) and other disability access standards.
 - Requiring the sidewalk vendor to obtain from the local authority a permit for sidewalk vending or a valid business license.
 - Requiring the sidewalk vendor to possess a valid California Department of Tax and Fee Administration seller's permit.
 - Requiring additional licenses from other state or local agencies to the extent required by law.
 - Requiring compliance with other generally applicable laws.
 - Requiring a sidewalk vendor to submit information on his or her operations, including, but not limited to, any of the following:
 - The name and current mailing address of the sidewalk vendor.
 - A description of the merchandise offered for sale or exchange.
 - certification by the vendor that to his or her knowledge and belief, the information contained on the form is true.
 - The California seller's permit number (California Department of Tax and Fee Administration sales tax number), if any, of the sidewalk vendor.
 - If the sidewalk vendor is an agent of an individual, company, partnership, or corporation, the name and business address of the principal.

A violation of a local authority's sidewalk vending program that complies with Section 51038 is punishable only by the following:

- An administrative fine not exceeding one hundred dollars (\$100) for a first violation.
- An administrative fine not exceeding two hundred dollars (\$200) for a second violation within one year of the first violation.

- An administrative fine not exceeding five hundred dollars (\$500) for each additional violation within one year of the first violation.
- A local authority may rescind a permit issued to a sidewalk vendor for the term of that permit upon the fourth violation or subsequent violations.

If a local authority requires a sidewalk vendor to obtain a sidewalk vending permit from the local authority, vending without a sidewalk vending permit may be punishable by the following:

- An administrative fine not exceeding two hundred fifty dollars (\$250) for a first violation.
- An administrative fine not exceeding five hundred dollars (\$500) for a second violation within one year of the first violation.
- An administrative fine not exceeding one thousand dollars (\$1,000) for each additional violation within one year of the first violation.
- Upon proof of a valid permit issued by the local authority, the administrative fines shall be reduced to the administrative fines set forth in paragraph (1).

Failure to pay an administrative fine shall not be punishable as an infraction or misdemeanor. Additional fines, fees, assessments, or any other financial conditions beyond those authorized in this measure shall not be assessed.

A violation of a local authority's sidewalk vending program that complies with Section 51038, or a violation of any rules or regulations adopted prior to January 1, 2019, that regulate or prohibit sidewalk vendors in the jurisdiction of a local authority, shall not be punishable as an infraction or misdemeanor, and the person alleged to have violated any of those provisions shall not be subject to arrest except when permitted under law. This shall apply to all pending criminal prosecutions under any local ordinance or resolution regulating or prohibiting sidewalk vendors. Any of those criminal prosecutions that have not reached final judgment shall be dismissed.

A local authority that has not adopted rules or regulations by ordinance or resolution that comply with Section 51037 shall not cite, fine, or prosecute a sidewalk vendor for a violation of any rule or regulation that is inconsistent with the standards described in subdivision (b) Section 51038.

"Sidewalk vendor" is a person who sells food or merchandise from a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other nonmotorized conveyance upon a public sidewalk or other pedestrian path.

"Roaming sidewalk vendor" means a sidewalk vendor who moves from place to place and stops only to complete a transaction.

"Stationary sidewalk vendor" means a sidewalk vendor who vends from a fixed location.

"Local authority" means a chartered or general law city, county, or city and county.