

Attachment A

SENATE COMMITTEE ON LOCAL GOVERNMENT

Senator María Elena Durazo, Chair
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FOOD VENDORS AND FACILITIES: ENFORCEMENT ACTIVITIES

Prohibits an agency or department of a local agency that regulates street vendors or CMFOs, or enforces sidewalk vending regulations, from collecting citizenship or criminal background data.

Background

Sidewalk vending. Sidewalk vendors (also known as street vendors) sell goods on streets and sidewalks from carts and other non-motorized conveyances. These entrepreneurs engage in business in many cities throughout the state, where they sell food items and other merchandise. Some sidewalk vendors are stationary, while others rove from one location to another. Although there is no statewide count, according to some sources, there are an estimated 50,000 sidewalk vendors in the City of Los Angeles, contributing hundreds of millions of dollars to the local economy.¹

There is a long history of sidewalk vending in California. According to a 2021 California Law Review article titled *Racial Justice for Street Vendors*, this business practice traces back as far as the late nineteenth century, with Chinese-Americans selling vegetables and other goods in Los Angeles. Since its start, the sidewalk vending workforce has grown to reflect the diversity of California, including many Californians of color.

Sidewalk vending law (SB 946, Lara, 2018). Until 2019, cities and counties were able to regulate or ban sidewalk vending as they saw fit. Due to concerns that criminal citations for sidewalk vendors could enable deportation by the federal government, and to legalize the activity of sidewalk vending as a means of economic support for immigrant communities, the Legislature enacted SB 946 (Lara, 2018), which prohibits local governments from banning sidewalk vending and establishes other parameters for local ordinances.

SB 946 prohibited cities and counties from regulating sidewalk vendors except if they adopt a regulatory framework consistent with state requirements. Among other provisions, SB 946 prohibited a city or county from requiring sidewalk vendors to operate within specific parts of public right-of-way except where that restriction is directly related to objective health, safety, or welfare concerns. For example, some local governments have identified disability access concerns as reasons to further restrict where street vendors may operate. Along those lines, cities and counties can neither restrict the overall number of sidewalk vendors, nor restrict sidewalk vendors to operate only in a designated area, unless these restrictions are directly related to objective health, safety or welfare concerns.

¹ <https://wagingnonviolence.org/2019/01/street-vending-legal-los-angeles-after-decade-organizing/>

One key provision of SB 946 is that cities and counties may 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, such as requirements to:

- Limit the hours of operation of sidewalk vendors in a manner that is not unduly restrictive;
- Maintain sanitary conditions;
- Obtain a local business license and a valid seller's permit from the California Department of Tax and Fee Administration; and
- Require compliance with other generally applicable laws.

SB 946 prohibits:

- Imposing criminal penalties for violations of sidewalk vending ordinances and instead establishes an administrative fine structure;
- Imposing any additional financial penalties;
- Establishing penalties for violations of sidewalk vending from being infractions or misdemeanors;
- Arresting sidewalk vendors except where permitted under other law.

While most local governments directly administer their street vending regulations, a few contract out with private firms, including the Cities of Anaheim, Fontana, and Richmond.

CalCode and street vending. Businesses that sell food are regulated under the California Retail Food Code (CalCode). CalCode lays out the requirements that food retailers must meet, including operational practices, equipment standards, and standards for facilities, such as kitchens and restrooms. County offices of environmental health—and the environmental health departments in four cities—regulate retail food operations. CalCode differentiates among permanent food facilities, mobile food facilities, temporary food facilities, cottage food operations, microenterprise home kitchens, and other types of food retail, and has differing rules for each.

SB 972 (Gonzalez, 2022) complemented existing street vending law by establishing a new retail food facility type, referred to as a “compact mobile food operation” (CMFO), as a type of mobile food facility that operate as a pushcart or stand. SB 972 exempts CMFOs from several CalCode provisions, including certain sink requirements. It also prohibited criminal penalties from applying to CMFOs, instead limiting code enforcement to administrative penalties.

California Values Act. Responding to concerns that state or local resources could be used to assist in immigration enforcement, in 2017 the Legislature enacted SB 54 (De Leon), known as the California Values Act. The California Values Act prohibits state and local law enforcement agencies, with the exception of the California Department of Corrections and Rehabilitation, from using resources to investigate, interrogate, detain, detect, or arrest people for immigration enforcement purposes. Specifically, law enforcement agencies cannot, among other things:

- Ask about an individual's immigration status;
- Detain a person based on a hold request from federal immigration authorities;

- Provide a person's personal information, as specified, including, but not limited to, name, social security number, home or work addresses, unless that information is "available to the public;"
- Arrest a person based on a civil immigration warrant;
- Participate in border patrol activities, including warrantless searches;
- Perform the functions of an immigration agent; and
- Transfer an individual to immigration authorities without a warrant or court order, except as otherwise specified.

However, the California Values Act does not apply to other local agencies or departments, including those that enforce laws that don't have a criminal component. Additionally, one requirement that some cities impose on street vendors is to submit to a criminal background check or fingerprinting, or similarly collect data on criminal history. Depending on the method of collection, these procedures can automatically alert federal authorities to the results of that background check and disclose immigration status for the subject. At least 29 cities in California require an applicant for a street vendor permit to submit to a background check or similar requirement.

The California Street Vendor Campaign wants the Legislature to enhance the protections that sidewalk vending law grants to street vendors.

Proposed Law

Senate Bill 635 prohibits an agency or department of a local government that regulates street vendors or CMFOs, or enforces sidewalk vending regulations, from doing any of the following:

- Contracting with or delegating or assigning authority to a nonpublic entity to (1) enforce sidewalk vending rules or regulations, (2) impound sidewalk vending equipment, or (3) cite, fine, or prosecute a sidewalk vendor for a violation of any sidewalk vending rules or regulations;
- Providing voluntary consent to an immigration enforcement agent to access any of the local authority's records that include personally identifiable information of any sidewalk vendors in the jurisdiction without a subpoena or judicial warrant. The bill states that this provision does not prohibit a local agency or department from challenging the validity of a subpoena or warrant; and
- Collecting information about an individual's immigration or citizenship status, place of birth, or criminal history, or imposing specified requirements related to criminal background checks as part of an application for a permit or valid business license for sidewalk vending.

The bill requires a local agency or department that previously collected criminal background data from, or imposed related requirements on, street vendors before the effective date of the bill to destroy those records by March 1, 2026.

SB 635 also requires these local agencies or departments to comply with the California Values Act, but provides that this requirement does not grant any additional authority that isn't otherwise allowed by law.

The bill requires, consistent with existing law for street vendors, an enforcement agency for a CMFO to accept a specified identification in lieu of a social security number if the enforcement agency otherwise requires a social security number for a permit, and prohibits disclosure of the the number collected, except as required to administer the permit or licensure program or to comply with a state law or state or federal court order.

SB 635 defines its terms, includes a severability clause, and includes findings and declarations to support its purposes.

Comments

1. Purpose of the bill. According to the author, “I am proud to author SB 635, a bill that will further equip our street vendors with the resources and protections that they need to grow their businesses. Street vendors are pivotal to California’s culture and economy, and nationally they have been huge contributors to their communities. Now more than ever, California must unite to uplift and empower micro-businesses across the State. SB 635 advances micro-entrepreneurs’ economic security and stability by keeping their data private.”

2. Home rule. When the California Legislature passed SB 946 in 2018, it significantly limited local governments’ ability to regulate street vendors. The bill prohibited jurisdictions from banning street vendors or imposing criminal penalties for violations, and limited the regulatory measures they could adopt to those objectively related to health and safety, which excludes things like aesthetic impact or impact on neighboring businesses. SB 635 builds upon these restrictions to impose new limitations on local officials. It prohibits local jurisdictions from contracting out enforcement and requiring criminal background checks. It enacts these restrictions to enhance protections for street vendors statewide, at the cost of local discretion to tailor regulations to the needs of their communities. For example, some local governments contract out for services when they lack full-time staffing resources or expect wide variation over time in workload. However, the need for contracting in the case of street vending is unclear. The City of Fontana signed a contract with a private company for \$600,000 to conduct vendor enforcement. The size of this contract appears to indicate that the City expects significant workload and has sufficient funds available to hire a public employee that is more accountable to the community. The Committee may wish to consider the balance that SB 635 strikes between local governments’ ability to address the needs of their constituents and the need for statewide consistency.

3. Law and order. Some local governments argue vending can be a cover for illegal activities, such as reselling of stolen goods (known as “fencing”) or sale of counterfeit merchandise. For example, the City of San Francisco banned vending altogether in the Mission District in November 2023 because it received complaints about illegal vending and other associated criminal and nuisance activities, as well as retail theft in the area. One tool that some local governments use to reduce the chance that street vending might be associated with retail theft or fencing is to require a background check or similar inquiry into the criminal history of permittees. SB 635 prohibits local agencies from requiring this information as part of a sidewalk vending permit application, which may mean that local governments lose a tool to combat illegal activities. On the other hand, those jurisdictions that apply these requirements do not apply them uniformly to other business license types, such as the licenses required for brick and mortar businesses. This can have the effect of discouraging vending altogether, limiting the legitimacy of street vending as a way to earn a living, and reinforcing an incorrect stereotype that vending is associated with criminal activity. Additionally, collecting this data might make this data

available to federal immigration authorities to identify individuals with a criminal record, no matter how minor, for deportation. In other words, if local governments don't have this data, they can't be compelled to share it. The Committee may wish to consider whether any legitimate uses of criminal background data as a criterion for street vending outweigh the harms that collecting this data can cause.

4. Let's be clear. To standardize terms and requirements throughout the bill, the Committee may wish to consider amending SB 635 in the following ways:

- SB 635 prohibits local governments from collecting citizenship data and data related to criminal backgrounds, but it only requires local governments to delete previously collected data related to criminal backgrounds. The Committee may wish to consider amending SB 635 to also require deletion of citizenship data.
- SB 635 refers to "local authority" in the provisions relating to the regulation of street vendors, except when requiring destruction of records on criminal history, where the bill refers to an "enforcement agency." The Committee may wish to consider amending SB 635 to replace that reference with "local authority."

5. Mandate. The California Constitution requires the state to reimburse local governments for the costs of new or expanded state mandated local programs. Because SB 635 imposes new duties on local government agencies regarding their street vending regulations, Legislative Counsel says it imposes a new state mandate. SB 635 states that if the Commission on State Mandates determines that the bill imposes a reimbursable mandate, then reimbursement must be made pursuant to existing statutory provisions.

6. Related legislation. SB 276 (Wiener), which the Committee approved at its March 19th hearing on a vote of 7-0, allows, until January 1, 2034, the City and County of San Francisco to adopt an ordinance requiring a permit for the sale on public property of merchandise that it has determined is a common target of retail theft. SB 276 is currently pending in the Senate Public Safety Committee.

SB 554 (Jones) prohibits local agencies from enacting ordinances that go beyond the California Values Act's requirements and requires cooperation with immigration authorities in certain circumstances. SB 554 is currently pending in the Senate Public Safety Committee.

7. Coming and going. The Senate Rules Committee has ordered a double referral of SB 635: first to the Committee on Local Government, which has jurisdiction over local powers and duties, and second to the Committee on Public Safety.

Support and Opposition (3/28/2025)

Support: Coalition for Humane Immigrant Rights (CHIRLA) (Co-Sponsor)
 Community Power Collective (Co-Sponsor)
 Inclusive Action for The City (Co-Sponsor)
 Inland Coalition for Immigrant Justice (Co-Sponsor)
 Public Counsel (Co-Sponsor)
 Alliance for A Better Community
 Asian Americans Advancing Justice-southern California
 Asociacion De Emprendedor@s

Backes; Glenn
Beverly-vermont Community Land Trust
Cair-la
California Calls
California Immigrant Policy Center
Cameo Network
Center for Community Action and Environmental Justice (CCA EJ)
Central American Resource Center of Los Angeles
Children's Institute
Chinatown Community for Equitable Development (CCED)
City Heights CDC
Clean Carwash Worker Center
Courage California
East Bay Community Law Center
East LA Community Corporation
Electronic Frontier Foundation
Gente Organizada
Icon CDC
Immigrants are Los Angeles
Immigrants Rising
Initiate Justice
Inland Empire Immigrant Youth Collective
Innecity Struggle
LA Defensa
Lausd Board Member Dr. Rocio Rivas
Long Beach Forward
Los Angeles Neighborhood Land Trust
Los Angeles Unified School Board District 2, Office of Boardmember Dr. Rocio Rivas
National Day Laborer Organizing Network (NDLON)
Oakland Privacy
Orale: Organizing Rooted in Abolition, Liberation, and Empowerment
Pilipino Workers Center
Pomona Economic Opportunity Center
San Diego Immigrant Rights Consortium
Seiu California
South Asian Network
Thai Community Development Center
United to Save the Mission
Voices for Progress
Western Center on Law & Poverty

Opposition: None Submitted

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