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PublicCEO: California Clears Way for Sidewalk Vending

BB&K's Marco Martinez and Albert Maldonado Write About SB 946



By **Marco Martinez** and **Albert Maldonado**

Gov. Jerry Brown recently signed legislation that clears the way for sidewalk vendors to legally operate statewide and requires cities to establish a permitting

process if they wish to regulate the industry.

The [Safe Sidewalk Vending Act](#) (Senate Bill 946) considers sidewalk vendors like any other business, allowing municipalities to require that sidewalk vendors obtain business licenses and abide by state tax laws. The new law also prohibits cities from enforcing criminal penalties.

Championed by Sen. Ricardo Lara (D-Bell Gardens), the bill was introduced in response to a rise in stories of harassment and arrests of street vendors.

“We can start seeing sidewalk vendors for who they are – women and seniors, single parents, and micro-business owners taking that first step to starting their own business,” Lara, who authored the bill, said. “Brown’s signature validates that thousands of sidewalk vendors are an important part of our economy.”

A recent survey of sidewalk vendors in Los Angeles — a city that’s struggled with how to regulate its street-side vending for years — found that 80 percent of such vendors are women, and many are seniors.

While the bill garnered support from more than 60 community groups, celebrating the ability of small business owners to contribute more widely to the local economy, its requirement that sidewalk-vendor regulations be directly linked to an “objective health, safety, or welfare concern” places significant limits on a city’s ability to regulate street vending.

Cities grappling with sidewalk-vending regulations need to act quickly. The law becomes effective Jan. 1.

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Strict Limits on Regulations

The new law requires local authorities to make findings related to “objective health, safety or welfare concerns” for any proposed sidewalk vendor regulations. It explicitly states that “...perceived community animus or economic competition does not constitute an objective health, safety, or welfare concern.

The law establishes minimum standards for sidewalk vending regulations and includes the following elements:

- Prohibits all current sidewalk vending regulations unless they are consistent with SB 946
- Prohibits cities from imposing sidewalk vending regulations “within specific parts of the public right of way” or within certain neighborhoods or areas
- Prohibits cities from limiting the total number of vendors unless doing so is directly related to “objective health, safety or welfare concerns”
- Authorizes cities to adopt time, place and manner restrictions for sidewalk vending, provided those restrictions are directly related to “objective health, safety or welfare concerns” (To the extent limitations on hours are needed, they cannot be unduly restrictive)
- Continues to allow cities to require compliance with sanitary standards, ADA requirements and that food preparation be consistent with Health and Safety Code sections 113700 et seq.
- Continues to allow cities to require vendors to obtain a permit for sidewalk vending or a business license and require sellers permits from the California Department of Tax and Fee Administration
- Allows cities to prohibit “stationary sidewalk vendors” from areas zoned exclusively residential
- Allows cities to prohibit vending within the vicinity of a farmers’ market or swap meet or areas designated for use pursuant to a temporary special permit
- Allows cities to impose sidewalk vending regulations for public parks, provided they are necessary to ensure the use and enjoyment of the park and necessary to “prevent an undue concentration of commercial activity that unreasonably interferes with the scenic and natural character of the [a] park”

Decriminalization of Sidewalk Sales

SB 946 requires that cities cease criminal prosecution as an enforcement option for sidewalk vending.

Vendors previously prosecuted under anti-vending laws can now petition for a dismissal of their conviction, sentence or fine.

The law does allow cities to issue administrative citations for violations of its sidewalk vending regulations and to impose higher administrative penalties for a failure to obtain the appropriate permits.

However, if administrative fines are imposed, SB 946 requires that cities

establish a process for determining a vendor's ability to pay violation fines. The law also requires that cities inform vendors of their right to request an ability-to-pay determination. If successful in establishing their inability to pay, a vendor will only be required to pay 20 percent of the imposed fine.

As the law states: "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."

Therefore, cities that want to regulate sidewalk vending will need to take immediate action to adopt their own regulations.

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