

Date of Hearing: August 3, 2022

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Chris Holden, Chair

SB 972 (Gonzalez) – As Amended June 30, 2022

Policy Committee: Health

Vote: 12 - 1

Urgency: No

State Mandated Local Program: Yes

Reimbursable: No

SUMMARY:

This bill establishes a regulatory framework for compact mobile food operations (CMFOs), as defined, and authorizes a local enforcement agency (LEA) to inspect a CMFO during its hours of operation and other reasonable times on the basis of consumer complaint or just cause. The regulatory framework addresses food quality and safety, sanitation, permitting, linkages with other types of food vending permits, penalty provisions, and exemptions.

FISCAL EFFECT:

Minor and absorbable costs to the Department of Public Health.

COMMENTS:

1) **Purpose.** According to the author:

Sidewalk food vending is essential to California's economy, culture, and health. Sidewalk food vending allows low-income and immigrant workers, often excluded from other opportunities, to make a living and provide for their families, while building a successful business. Sidewalk food vendors provide healthy food in neighborhoods that lack access to healthy food retail, and they contribute mightily to our local economies.

In 2018, the Legislature enacted SB 946 (Lara), which established parameters for local regulations concerning vending location and manner of operations. After several years of local implementation of SB 946, it is apparent that outdated requirements found in the California Retail Food Code (CalCode)—including incompatible equipment and design standards, exorbitant costs, and punitive enforcement measures—are preventing the vast majority of all sidewalk food vendors from obtaining a local health permit to vend food.

By reducing permit barriers, public health agencies will have a significantly greater ability to educate vendors and offer corrective measures to cart designs and operating procedures that will increase overall community health and safety. SB 972 promotes economic

inclusion while improving public health by modernizing CalCode so that sidewalk food vendors can actually obtain a permit and join the regulated vending economy.

- 2) **Background.** As the author stated, SB 946 (Lara) Chapter 459, Statutes of 2018, intended to help sidewalk vendors support themselves and their families by prohibiting overly restrictive local ordinances that were making it difficult to operate. 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. Local authorities cannot prohibit a sidewalk vendor from selling food or merchandise in a park owned or operated by the local authority unless the operator of the park has signed an exclusive agreement with a concessionaire. Local authorities cannot restrict the overall number of sidewalk vendors, unless these restrictions are directly related to health, safety or welfare concerns. Local authorities are permitted to limit the hours of operation if not unduly restrictive, and require sanitary conditions be maintained.

SB 946 replaced criminal penalties with administrative penalties, in part to prevent the federal government from using a criminal history in deportation proceedings. An adjudicator of penalty fines is required to take into account the ability of the violator to pay the fine and allows a violator to request an ability-to-pay determination at any point. A local authority is required to accept 20% of the fine in full satisfaction if the violator earns less than 125% of the federal poverty line.

However, SB 946 did allow cities and counties to require compliance with any other licensing and permitting required by law, and specifically stated that nothing affects the applicability of the CRFC to a vendor who sells food. Thus, a sidewalk vendor is subject to enforcement if they are selling food without a permit as a food facility under the requirements of the CRFC.

- 3) **Related Legislation.** SB 1290 (Allen) allows, until January 1, 2026, a local authority to impose the full amount of fines for the fourth or subsequent violations of sidewalk vending ordinances without regard of the person's ability to pay. SB 1290 is pending in this committee.

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