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## SENATE COMMITTEE ON HEALTH

Senator Dr. Richard Pan, Chair

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**BILL NO:** SB 972  
**AUTHOR:** Gonzalez  
**VERSION:** February 10, 2022  
**HEARING DATE:** April 20, 2022  
**CONSULTANT:** Vincent D. Marchand

**SUBJECT:** California Retail Food Code

**SUMMARY:** Establishes a new type of retail food facility called a “compact mobile food facility” as a subcategory of mobile food facility that is nonmotorized and operates from a pushcart or stand, exempts compact mobile food facilities as well as existing mobile food facilities from various provisions of the retail food code law, including certain sink requirements, eliminates criminal infraction and misdemeanor penalties for the entirety of the retail food law and replaces them with administrative penalties, and repeals limits on the amount of annual sales for cottage food operators and microenterprise home kitchens, as well as eliminating daily and weekly meal limits for microenterprise home kitchens.

**Existing law:**

- 1) Establishes the California Retail Food Code (CalCode) to provide for the regulation of retail food facilities. Health and sanitation standards are established at the state level through the CalCode, while enforcement is charged to local agencies, carried out by the 58 county environmental health departments, and four city environmental health departments (Berkeley, Long Beach, Pasadena, and Vernon). [HSC §113700, et seq.]
- 2) Defines a “potentially hazardous food,” in part, as a food that requires time or temperature control to limit pathogenic micro-organism growth or toxin formation. Requires potentially hazardous food to be maintained at or above 135 degrees Fahrenheit, or at or below 41 degrees Fahrenheit. [HSC §113781]
- 3) Defines a “mobile food facility” as any vehicle used in conjunction with a commissary or other permanent food facility upon which food is sold or distributed at retail. Defines “commissary” as a food facility that services mobile food facilities, mobile support units, or vending machines where any of the following occur: food containers, or supplies are stored; food is prepared or prepackaged for sale or service at other locations; utensils are cleaned; or, liquid and solid wastes are disposed, or potable water is obtained. [HSC §113831, §113751]
- 4) Defines “limited food preparation,” in part, as food preparation that is restricted to heating, frying, baking, roasting, popping, shaving of ice, blending, steaming or boiling of hot dogs, or assembly of nonprepackaged food, slicing and chopping of food on a heated cooking surface during the cooking process, and cooking and seasoning to order. Excludes slicing and chopping unless it is on the heated cooking surface, thawing, cooling of cooked, potentially hazardous food, grinding raw ingredients, and reheating of potentially hazardous foods for hot holding, except for hot dogs and tamales in their original wrapper. [HSC §113818]
- 5) Defines a “cottage food operation” (CFO), for purposes of the CalCode, as an enterprise that prepares or packages nonpotentially hazardous foods, and includes both “Class A” CFOs, which is restricted to direct sales of food products with up to \$75,000 in gross annual sales, and “Class B” CFOs which may engage in both direct sales and indirect sales through third-

party retail food facilities with up to \$150,000 in sales. Requires the gross annual sales limits to be annually adjusted for inflation. [HSC §113758]

- 6) Defines an microenterprise home kitchen operation (MEHKO) as a food facility that is operated by a resident in a private home where food is stored, handled, and prepared for, and may be served to, consumers, and that meets certain requirements, including limiting food preparation to no more than 30 meals per day, and no more than 60 meals per week, and no more than \$50,000 in annual gross sales. [HSC §113825]
- 7) Provides the governing body of a city or county with full discretion to authorize, by ordinance or resolution, the permitting of MEHKOs, and requires a permit issued by a county that has authorized the permitting of MEHKOs to be valid in any city within the county regardless of whether the city has separately enacted an ordinance or resolution to authorize or prohibit the permitting of MEHKOs within that city. [HSC §114367]
- 8) Exempts a MEHKO from a number of requirements of a restricted food service facility, including: provisions relating to sinks, warewashing machines, and manual or machine sanitation, as long as the sink in a MEHKO has hot and cold water; limitations on consumer access to the food facility; requirements pertaining to the characteristics and construction of food contact surfaces and clean-in-place equipment; limitations on the use of wood as a food contact surface; requirements relating to ventilation; and, limitations on the presence and handling of animals, as long as all animals other than service animals are kept out of the kitchen and dining room during food preparation and service. [HSC §114367.1]
- 9) Establishes a misdemeanor penalty for a violation of any provision of the CalCode, punishable by a fine of not less than \$25 or more than \$1,000, or by imprisonment in the county jail for up to six months, or by both fine and imprisonment. [HSC §114395]
- 10) Makes it an infraction, punishable by a fine of not more than \$100 for each day of operation in violation, to violate provisions of law requiring food facilities that prepare or serve nonprepackaged potentially hazardous foods to have an owner or employee successfully pass an approved food safety certification examination, or for food facilities that prepare or serve nonpotentially hazardous food, and all temporary food facilities, to be able to demonstrate to the enforcement officer that the employees have an adequate knowledge of food safety principles as they relate to the specific operation involved in their assigned duties. [HSC §113947.6]

**This bill:**

- 1) Creates a new type of retail food facility, for purposes of regulation by the Cal Code, called the “compact mobile food facility” as a subcategory of a mobile food facility, and defines a compact mobile food facility as a nonpermanent food facility that operates from an individual or from a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other nonmotorized conveyance.
- 2) Exempts compact mobile food facilities from a provision of law limiting what can be displayed or sold outdoors to only prepackaged nonpotentially hazardous food or uncut produce, and instead permits compact mobile food facilities to display or sell cut fruit and vegetables, as long as conditions that otherwise apply to outdoor displays selling nonpotentially hazardous foods are satisfied.

- 3) Repeals the enforcement provision in the CalCode that subjects any person who violates any provision of the Cal Code, unless otherwise specified, to a misdemeanor, punishable by a fine of not less than \$25 or more than \$1,000, or by a jail term of up to six months, or by both fine and jail.
- 4) Replaces the criminal enforcement penalty that is repealed in 3) above with an enforcement provision requiring violations of the CalCode to be punishable only by an administrative fine, consistent provisions of law establishing an administrative fine structure for sidewalk vendors in the Government Code, which is subject to mandatory reductions based on an individual's ability to pay. *(See an explanation of this fine structure in Comment 2) below, discussing the enforcement provisions of the bill that decriminalized sidewalk vending.)*
- 5) Eliminates various criminal infraction penalties for enforcement of specific violations of the CalCode, and replacing them with administrative penalties, including the following provisions: the requirement that food facilities with 20 or more locations comply with federal nutritional disclosure requirements on menus; the prohibition from selling infant formula or baby food that is after the "use by" date; the requirement that permanent food facilities provide toilet facilities for consumers; and, a requirement that restaurants selling children's meals make the default beverage water or milk.
- 6) Repeals the cap on gross annual sales for cottage food operations, which are currently \$75,000 for "Class A" cottage food operations, and \$150,000 for "Class B" cottage food operations. Additionally, revises the definition of "direct sale," for purposes of cottage food operations, to include transactions at a mobile food facility operated by a cottage food operator.
- 7) Revises the definition of "limited food preparation" by doing the following:
  - a) Including the dispensing and portioning for immediate service to a customer of food that has been temperature controlled until immediately prior to portioning or dispensing;
  - b) Including the slicing and chopping of nonpotentially hazardous food that has been washed at an approved facility; and,
  - c) Permitting, by repealing prohibitions on these activities from being considered part of "limited food preparation," the reheating of potentially hazardous foods for hot holding, and hot holding of nonprepackaged, potentially hazardous food.
- 8) Revises provisions of law governing MEHKOs as follows:
  - a) Permits food from a MEHKO to be served from a mobile food facility, and incorporates food sold directly from a mobile food facility operated by the MEHKO permit holder as a direct sale to consumers;
  - b) Repeals the limitation for MEHKOs of preparing no more than 30 individual meals per day, or the equivalent in meal components when sold separately, and no more than 60 individual meals per week; and,
  - c) Repeals the cap on annual gross sales for MEHKOs (which was initially set at \$50,000 per year, and is adjusted annually for inflation).
- 9) Exempts compact mobile food facilities from the requirement that mobile food facilities operate in conjunction with a commissary, mobile support unit, or other facility approved by the enforcement agency if the compact mobile food facilities operates in conjunction with a

licensed cottage food operation or a MEHKO. Requires enforcement agencies to approve the storage of compact mobile food facilities in the home of the operator or permit holder if the food facility is sanitized daily, notwithstanding a requirement that mobile food facilities be stored at commissaries or other approved locations.

- 10) Permits prepackaged nonpotentially hazardous food, whole fruits, and whole vegetables to be stored in the home prior to sale or preparation of that food in a compact mobile food facility, notwithstanding a requirement that food for mobile food facilities be stored at a commissary or other approved facility.
- 11) Exempts all mobile food facilities from the requirements of the CalCode if they only sell prepackaged, nonpotentially hazardous foods or whole raw fruits or vegetables.
- 12) Exempts compact mobile food facilities from a provision of CalCode requiring all food-related and utensil-related equipment to be certified for sanitation by the American National Standards Institute if the enforcement agency determines that the equipment of the facility meets the characteristics of certified equipment (this exemption is similar to an existing exemption for restricted food serve facilities).
- 13) Permits an enforcement agency to permit a mobile food facility to operate without providing its own supply of potable water, notwithstanding a requirement that water tanks be provided for nonpermanent food facilities of sufficient capacity for food preparation, warewashing, and handwashing purposes, if alternative supplies of water are available in the planned area of operation, including, but not limited to, public faucets, bottled water sales, or bottled water carried with the vendor but stored outside of the mobile food facility. Permits a mobile food facility to operate with an integral water tank smaller than specified under existing law if the enforcement agency finds that the mobile food facility is operating in an area and manner that would allow for replenishment of the water supply as needed.
- 14) Makes the following changes to the requirement that mobile food facilities provide a three-compartment warewashing sink:
  - a) Deletes an exemption from the three-compartment sink requirement for mobile facilities that only handle nonpotentially hazardous foods that require minimal preparation, as specified, steamed or boiled hot dogs, or tamales in their original wrapper, as long as all utensils and equipment are washed and sanitized on a daily basis at the approved commissary or permanent food facility and the mobile food facility maintains an adequate supply of spare preparation and serving utensils as needed to replace those that become soiled;
  - b) Deletes a provision that provided alternative options to the three compartment sink requirement for unenclosed food facilities that prepare potentially hazardous beverages for immediate service in response to an individual consumer order, including the ability to provide a one-compartment sink; and instead; and,
  - c) Permits a mobile food facility that is approved for limited food preparation, as an alternative to the three-compartment warewashing sink, to not provide a warewashing sink and instead maintain an adequate supply of spare preparation and serving utensils to ensure that utensils used for potentially hazardous foods are replaced with clean and sanitized utensils every four hours or as needed to replace those that become soiled.

- 15) Permits a mobile food facility to satisfy the requirement that handwashing sinks and warewashing sinks be an integral part of the primary unit or on an approved auxiliary conveyance by demonstrating access to a permitted auxiliary conveyance containing the necessary handwashing and warewashing sinks, which may be operated by a different permit holder. Permits an enforcement agency to permit an auxiliary conveyance to serve multiple mobile food facilities operating in close proximity.
- 16) Permits a compact mobile food facility to operate without an integral handwashing sink, auxiliary sink unit, or other handwashing facility if it is equipped with a supply of clean, potable water, hand soap, a receptacle for waste water, and paper towels.
- 17) Permits an enforcement agency to waive the requirement that a mobile food facility be operated within 200 feet travel distance of an approved and readily available toilet and handwashing facility if it finds that the operations of the mobile food facility provide for adequate access to restroom facilities in an alternative manner. Permits a mobile food facility with multiple employees or operators to remain operable by a single employee or operator so that employees may alternate use of a restroom.
- 18) Permits an enforcement agency to preapprove a standard plan for a standardized or mass-produced facility intended to serve as a mobile food facility. Permits the enforcement agency to require that the manufacturer of the standardized facility affix a sticker or decal to each individual unit certifying that the unit was built in accordance with the preapproved blueprints. Specifies that a person proposing to operate a mobile food facility for which plans have been preapproved is not required to submit plans for the individual unit. Specifies that the repair of this equipment or the replacement of equipment and fixtures with substantially similar equipment is not a remodel, and does not require the submission of plans to an enforcement agency.
- 19) Permits an enforcement agency to waive or reduce a fee for the permit, registration, or related services for an applicant seeking approval of a compact mobile food facility.
- 20) Exempts compact mobile food facilities from a requirement that an owner or employee pass an approved food safety certification examination if they prepare, handle, or serve nonprepackaged potentially hazardous food, and specifies that compact mobile food facilities are deemed to comply with a requirement that the owner or person in charge demonstrate that they have an adequate knowledge of food safety principles as they relate to the specific food facility operation if the compact mobile food facility carries a written copy of its standard operating procedures approved by an enforcement agency.
- 21) Repeals a provision of law making it an infraction, punishable by a fine of \$100 per day, to be in violation of provisions of law requiring food facilities that prepare or serve nonprepackaged potentially hazardous foods to have an owner or employee successfully pass an approved food safety certification examination, or for food facilities that prepare or serve nonpotentially hazardous food, and all temporary food facilities, to be able to demonstrate to the enforcement officer that the employees have an adequate knowledge of food safety principles as they relate to the specific operation involved in their assigned duties.
- 22) Revises the definition of “portable,” for purposes of the Cal Code, by increasing the maximum allowable weight from 80 pounds to 100 pounds, or otherwise designed to be mobile.

**FISCAL EFFECT:** This bill has not been analyzed by a fiscal committee.

**COMMENTS:**

- 1) *Author's statement.* 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, Chapter 459, Statutes of 2018), 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 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 on sidewalk vending decriminalization bill.* As noted in the author's statement, SB 946 was intended by the author and proponents to help sidewalk vendors support themselves and their families by prohibiting overly restrictive local ordinances that were making it difficult if not impossible 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, nor restrict sidewalk vendors to operate only in a designated area, 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 listed other types of restrictions that a local authority can, or cannot, impose on sidewalk vendors.

Significantly, SB 946 removed criminal penalties in place of administrative penalties, in part to prevent the federal government from using a criminal history in deportation proceedings. Specifically, it restricted penalties for violating the requirements of a local authority's compliant sidewalk vending program to an administrative penalty of \$100 for a first violation, \$200 for a second violation within one year of the first violation, and \$300 for each additional violation within one year of the first violation. Administrative penalties for vending without a permit are \$250, \$500, and \$1,000, respectively. An adjudicator of these 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. SB 946 prohibits any additional financial penalties from being imposed, prohibits penalties for violations of sidewalk vending from being infractions or misdemeanors, and prohibits sidewalk vendors from being subject to arrest except where permitted under law.

However, SB 946 did permit 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 CalCode to a vendor who sells food. Therefore, a sidewalk vendor is still out of compliance, and subject to enforcement, if they are selling food without a permit as a food facility under the requirements of the CalCode.

- 3) *Background on the CFO law.* AB 1616 (Gatto, Chapter 415, Statutes of 2012) enacted the regulatory structure for CFOs. This law, for the first time, permitted the preparation of food in home kitchens for sale at the retail level, and initially set the cap at \$50,000 in gross annual sales. However, cottage food is limited to non-potentially hazardous foods: foods that by definition do not require refrigeration or to be kept hot in order to prevent the growth of micro-organisms or toxins. These foods include items such as baked goods (without custard or meat fillings), candy, dried fruit, dried pasta, dried baking mixes, fruit pies, granola, herb blends, and jams or jellies, among others. The law set up two categories of CFOs: Class A operations, which are limited to direct sales to consumers, and Class B operations, which are also permitted to sell through third-party retailers such as restaurants or coffee shops. Class A operations are not subject to initial inspection, and can only be inspected following a consumer complaint about unsafe food. Class B operations are subject to an initial inspection, and thereafter no more than one inspection per year. CFOs are exempted from the definition of a food facility, and are permitted separately, but they are subject to certain specified provisions of the CalCode, such as handwashing requirements and the use of gloves, among other requirements. AB 1144 (Rivas, Chapter 178, Statutes of 2021) increased the sales cap from \$50,000 for both license types to \$75,000 for Class A and \$150,000 for Class B, and required that these caps be adjusted annually for inflation.
- 4) *Background on MEHKOs.* AB 626 (Garcia, Chapter 470, Statutes of 2018) established a regulatory structure for MEHKOs. The intent of the author was to establish a legal way for home cooks to benefit from their labor and skills and promote economic development in vulnerable communities where the sale of homemade food is popular. The general structure of AB 626 was to enact a permitting process that would be overseen by the same local health agencies that oversee fully-permitted restaurants, but to exempt these MEHKOs from requirements that would be difficult to meet in a home kitchen, such as sinks with multiple compartments and multiple drainboards, requirements related to the floor, wall and counter material, special plumbing requirements, limitations on who could be in the food preparation area, etc. AB 626 required jurisdictions to opt-in in order to authorize MEHKOs in any given area. There are 62 local environmental health agencies that enforce the CalCode in their respective jurisdictions (the 58 counties, plus the cities of Berkeley, Long Beach, Pasadena, and Vernon). According to the Cook Alliance, which was one of the sponsors of AB 626 and has been tracking its implementation, the following nine counties have authorized the permitting of MEHKOs: Riverside, Alameda, San Mateo, Santa Barbara, San Diego, Solano, Imperial, Lake, and Sierra. In Riverside, which was the first county to opt in, there are more than 100 permitted MEHKOs. Alameda has permitted more than 30, and the remaining counties, which opted in more recently, have fewer but are growing.
- 5) *Foodborne illnesses.* According to the Centers for Disease Control and Prevention (CDC), it is estimated that each year, 48 million people (one in six) get sick from a foodborne illness each year, 128,000 are hospitalized, and 3,000 die. Although anyone can get a foodborne illness, some people are more likely to develop one, including pregnant women, young children, older adults, and people with weakened immune systems. The top five germs that cause illnesses from food eaten in the United States are norovirus, Salmonella, Clostridium

perfringens, Campylobacter, and Staphylococcus aureus. Other germs that don't cause as many illnesses, but when they do are more likely to lead to hospitalization, include Escherichia coli (e. coli), Clostridium botulinum (botulism), Listeria, and Vibrio. Some foods are contaminated before they reach a kitchen, and others are contaminated by food handlers. According to the CDC, sick food handlers caused 53% of the foodborne norovirus outbreaks by contaminating food, and possibly contributed to another 29% of the outbreaks. Among the outbreaks that involved a single contaminated food, over half are produce such as leafy vegetables or fruits, which are commonly eaten raw, and are most often contaminated during preparation or service by a sick food handler.

- 6) *Related legislation.* SB 1290 (Allen) contains identical provisions to this bill, and additionally revises provisions in the Government Code that were enacted pursuant to SB 946 pursuant to sidewalk vendors. The Government Code provisions would permit a city or county to impose additional requirements on sidewalk vendors that prohibit the improper discharge of oils into sewer, water, and storm systems or with other areas of the environment, prohibit the pollution of protected habitat caused by the abandonment of plastic and Styrofoam, and prohibit conditions that create certain hazards or render air, food, or drink unwholesome or detrimental to health. Additionally, the Government Code provisions would permit an enforcing city or county to temporarily impound the cart and equipment, if the sidewalk vendor refuses to accept a citation or notification of fine or refuses to show identification, until the sidewalk vendor provides identification and accepts the citation or notification of fine.
- 7) *Prior legislation.* AB 1144 (Rivas, Chapter 178, Statutes of 2021) increased the maximum amount of gross annual sales for cottage food operations, currently \$50,000 for both "Class A" and "Class B" operations, to \$75,000 for "Class A," and \$150,000 for "Class B," and indexes these amounts to the Consumer Price Index. Additionally, required "Class B" operations to be subject to an annual inspection.

AB 377 (Garcia, Chapter 536, Statutes of 2019) clarified provisions of law governing the authorization and regulation of MEHKOs, including clarifying that only a county or one of four cities with an environmental health department can authorize MEHKOs, and if authorized by one of these jurisdictions, they are permitted in all areas of those jurisdictions.

SB 946 (Lara, Chapter 459, Statutes of 2018) decriminalized sidewalk vending, and established various requirements and limitations on the regulation of sidewalk vending by cities and counties. However, this bill specified that it did not affect the applicability of the CalCode to a sidewalk vendor who sells food.

AB 626 (Garcia, Chapter 470, Statutes of 2018) established Microenterprise Home Kitchens (MHKs) as a new category of retail food facility, that cities or counties would have discretion to authorize and permit, to be operated by a resident in a private home, subject to specified requirements. Subjects MHKs to the requirements of a restricted food service facility, with numerous exemptions from these requirements primarily to accommodate the differences between a home kitchen and a commercial kitchen. Limits MHKs to selling food directly to consumers, but specifies that the sale of food through an Internet food service intermediary is considered a direct sale to consumers, and establishes requirements on these intermediaries.



- 8) AB 1616 (Gatto of 2012) enacted the California Homemade Food Act, also known as the cottage food bill, which provided a regulatory structure to allow the production and sale of nonpotentially hazardous food in a home kitchen.

SB 144 (Runner, Chapter 23, Statutes of 2006) established the CalCode in order to create uniformity between California's retail food safety laws and those of other states, as well as to enhance food safety laws based on the best available science.

- 9) *Support.* This bill is co-sponsored by the Coalition for Humane Immigrant Rights, Community Power Collective, Inclusive Action for the City, Public Counsel, Insurance Commissioner Ricardo Lara, and the Western Center on Law and Poverty. The sponsors, part of a California Street Vendor Campaign, state that immigrant and low-income workers face unjust criminalization and barriers to economic opportunity across the state, and are sponsoring this bill to continue their support for low-income sidewalk food vendors as they seek to be included in the formal economy. The sponsors state that the CalCode provisions governing “mobile food facilities” were adopted when small-scale sidewalk vending was still banned across California. As a result, the requirements were designed with large-scale facilities in mind. Small-scale food vendors of tacos, elotes, fresh fruit and other iconic street foods are largely unable to comply with these unsuitable provisions, and are therefore unable to operate legally. This frustrates the purpose of SB 946, impedes local permitting and regulation of sidewalk vending, unfairly exposes vendors to harassment and criminalization, and undermines public health by keeping food vendors out of formal health regulation structures. The sponsors state that this bill takes a number of steps to address the gaps that are currently trapping vendors in a cycle of noncompliance, including:

- a) Enhancing vendors’ ability to provide healthy food to their communities by removing the prohibition on slicing and chopping of fresh fruit on site;
- b) Encouraging safe food preparation by enabling proper reheating and hot holding of food previously prepared at an approved kitchen facility;
- c) Removing or reducing impossible equipment requirements, making it possible for vendors and manufacturers to build carts at an affordable cost that actually fit on the sidewalk;
- d) Allow local health departments to approve innovative equipment designs if, in their expert opinion, that equipment is safe for vendors to use;
- e) Create new opportunities for food vendors to make use of existing legal programs for home kitchens and reduce barriers to accessing commissary space; and,
- f) Remove criminal penalties for violations of the CalCode and replace them with noncriminal administrative fines.

Insurance Commissioner Ricardo Lara states that while major steps toward recognizing the value of sidewalk vending in our communities was taken with his SB 946, but more needs to be done. Rather than continuing to expose sidewalk food vendors to the daily threat of ticketing, fines, and cart confiscations, we must partner together to finish the necessary work to protect and promote these micro-business owners in our collective push for overall statewide and regional economic and business revitalization.

- 10) *Opposition.* The California Association of Environmental Health Administrators, the Health Officers Association of California, the County Health Executives Association of California, and the California State Association of Counties jointly write in opposition unless amended to restore a number of core public health provisions that it removes from the CalCode. These

opponents state that they recognize the need for updating our street food vending laws, and remain committed to finding a safe and equitable solution to the problem that this bill seeks to address. However, any expansion of street vending needs to be done safely, and they oppose this bill unless four core public health protections are reinstated:

- a) Restoring the current sales caps and operation provisions of MEHKOs, which this bill removes. According to opponents, this program is still in its infancy, having been enacted in 2018. Expanding beyond the current program limitations may increase impacts not only to public health, but may unintentionally create substandard housing/living conditions or residential nuisance issues. Additionally, this provision may result in a chilling effect on local governments considering adopting a MEHKO program in their jurisdiction;
- b) Restoring current sales caps on CFOs, which opponents note were extended just last year. Opponents state we need time to determine whether in-home kitchens can safely produce greater volumes of cottage food without unintentionally creating substandard housing/living conditions or residential nuisance issues;
- c) Restoring current CalCode enforcement authority. Opponent organizations state that they are supportive of limiting CalCode enforcement of street vending violations to administrative remedies, while leaving all other penalties as currently written in the CalCode. Opponents state these enforcement provisions are needed to address other egregious food safety violations in other food operations or under other code sections; and,
- d) Ensuring that the proposed expansion of “compact” mobile food facilities does not include “pop-up” kitchens and other unsupported street vending operations like stands and stationary counters that may not be suitable for preparing and serving potentially hazardous food safely.

Regarding other issues, the opposing organizations state that they are making good progress in discussion on a number of other issues, such as expanding the list of allowable foods, like cut produce, allowing hot/cold holding and reheating of food, providing greater flexibility in the permitting of more types of kitchens as commissaries, reducing some structural requirements for these compact carts, and streamlining the construction approval and permitting process.

- 11) *Letter of concern.* The following organizations signed on to a letter of concern: the San Francisco Travel Association, the Hotel Council of San Francisco, the San Francisco Chamber of Commerce, the Golden Gate Restaurant Association, the San Francisco Civic Center, Fisherman’s Wharf Community Benefit District, the Union Square Alliance, and Pier 39. These organizations state that they are concerned about the sweeping changes to the CalCode in this bill, and note that the unintended consequences brought about by SB 946 are severe, and communities are already significantly challenged by unpermitted vending. These organizations state that San Francisco has diligently complied with SB 946, creating a city-wide permitting program providing vendors with a clear and reasonable path to obtain a permit, but without additional enforcement tools at the state level, the work thus far will be further challenged by the impacts of this bill. They state that this bill will prevent the inspection and enforcement of basic food handling and safety protocols for small food service vendors, but also for the large, highly organized street vending monopolies that have overwhelmed San Francisco and Santa Monica. These large monopolies push out small independent food cart operators that SB 946 was originally intended to benefit. Absent

sufficient penalties for noncompliance of the CalCode, the local and statewide unpermitted vending situation will continue to deteriorate.

**SUPPORT AND OPPOSITION:**

**Support:** Coalition for Humane Immigrant Rights (co-sponsor)  
Community Power Collective (co-sponsor)  
Inclusive Action for the City (co-sponsor)  
Public Counsel (co-sponsor)  
Ricardo Lara – California Insurance Commissioner (co-sponsor)  
Western Center on Law and Poverty (co-sponsor)  
Active San Gabriel Valley  
African American Chamber of Commerce of San Joaquin County  
Beverly-Vermont Community Land Trust  
Brown Issues  
California Asian Pacific Chamber of Commerce  
California Association for Micro Enterprise Opportunity  
California Calls  
California Community Foundation  
California Environmental Voters  
California Immigrant Policy Center  
Californians for Economic Justice  
Central Coast Alliance United for a Sustainable Economy  
cityLAB UCLA  
Climate Resolve  
Community Action Board of Santa Cruz County, Inc.  
Community Health Councils  
Comunidades Indígenas en liderazgo  
Council of Mexican Federations in North America  
Courage California  
Cultiva La Salud  
Drug Policy Alliance  
East LA Community Corporation  
Eastmont Community Center  
Eastside Leadership for Equitable and Accountable Development Strategies  
El Concilio California  
Eric Garcetti, Mayor of Los Angeles  
Esperanza Community Housing Corporation  
Having Our Say Coalition  
Hispanic Chambers of Commerce of San Francisco  
Housing Now!  
LA Más  
LAC+USC Medical Center Foundation  
Latino Coalition for a Healthy California  
Latino Community Foundation  
Local Initiatives Support Corporation  
Los Angeles Area Chamber of Commerce  
Los Angeles Food Policy Council  
Los Angeles Walks  
Loyola Immigrant Justice Clinic  
National Lawyers Guild, Los Angeles Chapter

Pilipino Workers Center  
Pomona Economic Opportunity Center  
Safe Place for Youth  
Small Business Majority  
South Asian Network  
Strategic Actions for a Just Economy  
Thai Community Development Center  
TransLatin@ Coalition  
United Way of Greater Los Angeles  
Urban Movement Labs  
Ten individuals

**Oppose:** California Association of Environmental Health Administrators (unless amended)  
California State Association of Counties (unless amended)  
County Health Executives Association of California (unless amended)  
County of Santa Barbara (unless amended)  
Health Officers Association of California (unless amended)

**-- END --**