



April 11, 2018

The Honorable Ricardo Lara
Member, California State Senate
State Capitol Room 5050
Sacramento, CA 95814

**RE: Senate Bill 946 (Lara) – Sidewalk Vendors
Oppose – As introduced January 29, 2018
Hearing Date: April 18, 2018 – Senate Governance and Finance Committee**

Dear Senator Lara:

The California State Association of Counties (CSAC) and the Urban Counties of California (UCC) write in respectful opposition to your Senate Bill 946, related to sidewalk vendors. We fully recognize the intent of your measure and the common challenges facing these merchandise and food sellers in local communities across our state. The early outreach to our organization and robust conversations have been very informative and valued.

Unfortunately, the approach provided in SB 946 creates an unclear path forward for our counties to protect the health and safety of our communities, preserve natural resources, promote other enterprises, and uphold contractual agreements. The measure seeks to re-establish existing local regulatory authority while at the same time strictly curtailing many elements essential to local regulatory efforts. We believe an approach that combines existing state statute with locally developed and enforceable policies is the best path forward. Specifically, our concerns are as follows:

Limiting Conflict with Existing Local Efforts

Many counties have adopted local policies to help regulate mobile businesses, specifically sidewalk vending in some instances, based on local community vending activity, land use regulations, and for the protection of consumers. SB 946 would override locally adopted policies for a standardized approach that overlooks the roles and responsibilities of counties as a local government entity, serving the public in conjunction with cities and special districts.

SB 946 provides that a county or city may regulate sidewalk vendors, as defined, by establishing a business license program so long as it does not restrict the number of licenses issued, location of activity by neighborhood, and access to selling food and merchandise in parks, unless there is a reasonable health, safety or welfare concerns. Regrettably, environmental protection and resource conservation is not grounds for limitations.

Counties have shared that a business license system proposed by SB 946 would go far beyond what may be required currently and could treat sidewalk vendors more like a brick and mortar enterprise than a

mobile business in some instances. It could subject them to additional seller's permits and administrative burdens that could deter sidewalk vendors from compliance, which is to the detriment of both the local agency and the vendor. This seems to run counter to the intent of SB 946 in its effort to override existing processes and establish entirely separate licensure schemes.

Clarifying Enforcement Tools

SB 946 provides a one-size-fits all penalty structure with administrative fines that grow with each subsequent violation. There is no option for counties to make adjustments to lessen or increase the penalty based on the severity of the violation. Furthermore, there is no remedy offered to stop vending activity by repeat offenders who may be selling counterfeit goods, unsafe food, or dangerous or illicit products. We respectfully suggest as an alternative that local administrative penalties for business license violations be applied to create consistency and have fines reflect cost-recovery for administrative burdens.

Upholding Other Authorized Activity

We are concerned that SB 946 could create conflicts with other existing permits and licenses granted to businesses or individuals for events or activities outside the generally permitted use for the area. This includes official conditional use permits (CUP) as well as event permits for personal celebrations, such as weddings, community gatherings, parades or fun runs. It is not clear if the sidewalk vending license would take priority since restrictions not related to health, safety and welfare are prohibited under SB 946.

Preserving Public Spaces

SB 946 clearly states that local agencies may not prohibit vendor activity in parks. Many cities, counties and special districts have established rules regarding park access, which can include beaches and coastline access, for environmental preservation and mutual enjoyment for all who visit. These may include restrictions on parking, camping, and pet and horse access. Commercial activity such as professional photography and filming, for-profit dog walking service, and unapproved catering services is also restricted or regulated by some local agencies and requires specific permits from the local agency.

The provision relating to parks also confuses the authority of local government. As mentioned above, parks can be regulated by cities, counties or special districts. Parks and recreation districts are independent, elected government bodies that provide access to open spaces to Californians and visitors throughout the state. They have their own authority to create regulations, issue permits, and enter into contracts for concessions and vending like a city or county. As written, it is unclear if SB 946 would grant city and county authority that supersedes that of special districts, should they adopt a sidewalk vendor licensing scheme.

Conforming with Established State Codes

The current language in SB 946 is silent on how vendors should be guided for safe preparation and handling of food. Local public health and environmental health departments work diligently to prevent and reduce community exposure to foodborne illnesses, which can cause ailments that range from mild to life-threatening. Existing law establishes the California Retail Code to protect the health and safety of consumers of food products sold. County environmental health departments serve counties as well as many cities in regulating retail food establishments, including mobile food facilities (Health and Safety Code Section 114294). Instead of creating new rules around sidewalk vending, we believe current statute is already sufficient and that food vendors should consistently comply with current law.

Reflecting Community Need

Local health departments have made significant strides to limit the sale of unhealthy foods in communities to improve overall health outcomes. For example, in stores, health departments have worked to ensure healthier choices are in checkout aisles rather than candies and high-sugar or high-fat selections. Counties have also worked to prevent unhealthy foods from being sold near or on school grounds. We are concerned with how SB 946 could derail those efforts and the local flexibility to continue to promote healthful food choices if this is not deemed “reasonable” under the provisions of the measure.

In closing, we wish to express our appreciation for the robust dialogue to date and consideration of the aforementioned concerns. However, we must remain respectfully opposed to SB 946 at this time. If you have any questions, please contact Dorothy Johnson with CSAC at (916) 650-8133 or Jolena Voorhis with UCC at (916) 327-7531.

Respectfully,



Dorothy Johnson
Legislative Representative, CSAC



Jolena L. Voorhis
Executive Director, UCC