

AMENDED IN ASSEMBLY JUNE 3, 2024

AMENDED IN SENATE MARCH 20, 2024

SENATE BILL

No. 925

Introduced by Senator Wiener

January 11, 2024

An act to amend ~~Section 9146 of the Government Code, relating to the Legislature. Section 51037 of the Government Code, and to add Section 496f to the Penal Code, relating to crimes.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 925, as amended, Wiener. ~~Legislative review of state agency action.~~ *City and County of San Francisco: merchandising sales.*

Under existing law, knowingly buying or receiving stolen property or property that has been obtained in any manner constituting theft or extortion, as specified, is punishable as either a misdemeanor or a felony if the value of the property exceeds \$950. Existing law authorizes a local authority to, by ordinance or resolution, adopt requirements regulating the time, place, and manner of sidewalk vending if the requirements are directly related to objective health, safety, or welfare concerns. Existing law prohibits a local authority from regulating sidewalk vendors, except in accordance with certain provisions.

This bill would authorize the City and County of San Francisco to adopt an ordinance prohibiting the sale of specified merchandise on public property without a permit, if the ordinance includes specified written findings, including, among other things, that there has been a significant pattern of merchandise being the subject of retail theft and then appearing for sale on public property within the City and County of San Francisco. The bill would require an ordinance adopted by the City and County of San Francisco to, among other things, identify a

local permitting agency that is responsible for administering a permit system. The bill would authorize the ordinance to provide that selling merchandise without a permit is punishable as an infraction, and that subsequent violations after 2 prior convictions is an infraction or a misdemeanor punishable by imprisonment in the county jail not exceeding 6 months. By creating a new crime, the bill would impose a state-mandated local program.

This bill would make legislative findings and declarations as to the necessity of a special statute for the City and County of San Francisco.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law requires a state agency, as specified, to notify the Joint Legislative Budget Committee not less than 60 days prior to the effective date on which the state agency will establish or change a federal aid allocation formula to a local agency. If the chairperson of the committee informs committee members of the chairperson's intention to waive the 60-day notification period, existing law permits the chairperson to grant a waiver of that notification period after receipt of the notification if an objection is not received within 10 days. Existing law requires, upon the request of the chairperson or any member of the committee, the committee to schedule a hearing on the proposed allocation formula to be established or changed.~~

~~This bill would reduce the objection period before granting a waiver to 9 days.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 51037 of the Government Code is
2 amended to read:

3 51037. (a) A local authority shall not regulate sidewalk vendors
4 except in accordance with Sections 51038 and 51039.

5 (b) ~~Nothing in this~~ This chapter shall not be construed to affect
6 the applicability of Part 7 (commencing with Section 113700) of

1 Division 104 of the Health and Safety Code to a sidewalk vendor
2 who sells food.

3 (c) ~~Nothing in this~~ This chapter shall *not* be construed to require
4 a local authority to adopt a new program to regulate sidewalk
5 vendors if the local authority has established an existing program
6 that substantially complies with the requirements in this chapter.

7 (d) *This chapter shall not be construed to affect the applicability*
8 *of state or local laws that prohibit the purchase or sale of stolen*
9 *property, including, but not limited to, Section 496 or 496f of the*
10 *Penal Code.*

11 SEC. 2. *Section 496f is added to the Penal Code, to read:*

12 496f. (a) *The City and County of San Francisco may adopt an*
13 *ordinance requiring a permit for the sale, on public property,*
14 *including public streets or sidewalks, of merchandise that the City*
15 *and County of San Francisco has determined is a common target*
16 *of retail theft. If the city and county passes such an ordinance, the*
17 *ordinance shall include all of the following written findings:*

18 (1) *That there has been a significant pattern of merchandise*
19 *being the subject of retail theft and then appearing for sale on*
20 *public property within the City and County of San Francisco.*

21 (2) *That requiring a permit to sell will further the objective of*
22 *preventing retail theft.*

23 (3) *That there are reasonable permit requirements to enable*
24 *the lawful sale of merchandise and to safeguard civil rights.*

25 (b) *An ordinance adopted pursuant to this section may remain*
26 *in effect for up to three years, subject to annual renewal of the*
27 *written findings.*

28 (c) (1) *An ordinance adopted pursuant to this section shall*
29 *identify a local permitting agency, separate from the San Francisco*
30 *Police Department, that shall be responsible for administering a*
31 *permit system.*

32 (2) *The permitting agency shall adopt rules and procedures for*
33 *administering the permit system.*

34 (3) *The permitting agency shall issue permits to persons who*
35 *are able to demonstrate that they obtained the merchandise*
36 *lawfully and not through theft or extortion.*

37 (d) *An ordinance may provide that selling merchandise without*
38 *a permit is punishable as an infraction, and that subsequent*
39 *violations after two prior convictions are infractions or*

1 *misdemeanors punishable by imprisonment in the county jail not*
2 *exceeding six months.*

3 *(e) Nothing in this section shall be construed to affect the*
4 *applicability of other state or local laws, including, but not limited*
5 *to, Section 496.*

6 *SEC. 3. The Legislature finds and declares that a special statute*
7 *is necessary and that a general statute cannot be made applicable*
8 *within the meaning of Section 16 of Article IV of the California*
9 *Constitution because of the need to address the issues relative to*
10 *fencing and retail theft operations in the City and County of San*
11 *Francisco.*

12 *SEC. 4. No reimbursement is required by this act pursuant to*
13 *Section 6 of Article XIII B of the California Constitution because*
14 *the only costs that may be incurred by a local agency or school*
15 *district will be incurred because this act creates a new crime or*
16 *infraction, eliminates a crime or infraction, or changes the penalty*
17 *for a crime or infraction, within the meaning of Section 17556 of*
18 *the Government Code, or changes the definition of a crime within*
19 *the meaning of Section 6 of Article XIII B of the California*
20 *Constitution.*

21 ~~SECTION 1. Section 9146 of the Government Code is amended~~
22 ~~to read:~~

23 ~~9146. Any state agency which is required or permitted by~~
24 ~~federal law or regulation to establish or alter a federal aid allocation~~
25 ~~formula to a local agency shall notify the Joint Legislative Budget~~
26 ~~Committee not less than 60 days prior to the effective date of the~~
27 ~~establishment or change in the federal aid allocation formula. The~~
28 ~~chairperson of the Joint Legislative Budget Committee may grant~~
29 ~~a waiver of the 60-day notification period after receipt of the~~
30 ~~notification.~~

31 ~~The chairperson shall inform members of the Joint Legislative~~
32 ~~Budget Committee of the chairperson's intention to waive the~~
33 ~~60-day notification period after such notification. If an objection~~
34 ~~is not received within 9 days, the chairperson shall proceed to grant~~
35 ~~the waiver of the 60-day notification period.~~

36 ~~The notification shall contain the federal law or regulation~~
37 ~~necessitating or authorizing the establishment or change, a~~
38 ~~description of the proposed allocation formula to be established~~
39 ~~or changed, as the case may be, and an estimate of the resulting~~

1 ~~increase or decrease in federal aid allocated to the affected local~~
2 ~~agency.~~

3 ~~When requested by the chairperson or by any member of the~~
4 ~~committee, or when the Legislature is in session, when requested~~
5 ~~by the chairperson of the committee, the Joint Legislative Budget~~
6 ~~Committee shall schedule a hearing on the proposed allocation~~
7 ~~formula to be established or changed, as the case may be.~~

8 ~~“Local agency” as used in this section, means any city, county,~~
9 ~~city and county, special district, school district, community college~~
10 ~~district, and county office of education.~~

11 ~~The establishment or changes in federal aid allocation formulas~~
12 ~~affecting less than one hundred thousand dollars (\$100,000) in~~
13 ~~federal aid in any fiscal year shall be exempt from the provisions~~
14 ~~of this section.~~

15 ~~This section does not apply to any reallocation of funds by a~~
16 ~~state agency from or to a local agency if the state agency finds that~~
17 ~~either of the following conditions, or both, exist:~~

18 ~~(a) The local agency cannot spend its entire allocation within~~
19 ~~the period established by the federal government.~~

20 ~~(b) The failure to spend the funds could lead to their recapture~~
21 ~~by the federal government or to a reduced allocation of federal~~
22 ~~funds in subsequent years.~~