

LEGISLATIVE DIGEST

[Police Code - Notice of Supermarket Closure]

Ordinance amending the Police Code to require large supermarkets to provide six months' notice to their customers and the City before permanently closing, and to explore ways to allow for the continued sale of groceries at the location.

Existing Law

Currently, there is no law in effect that requires supermarkets to provide notice of their intent to close permanently to their customers, the public, or to the City.

However, since April 2024, when the ordinance was introduced, the California State Legislature enacted legislation (S.B. 89) requiring that covered supermarkets provide at least 45 days written notice of an impending closure to supermarket employees and their authorized representatives, except where the closure is necessitated by a physical calamity or caused by business circumstances that were not reasonably foreseeable at the time that notice would have been required. Violations of S.B. 89, which will go into effect on January 1, 2025, will be subject to a civil penalty not to exceed \$10,000 for each closure, to be assessed and collected in a civil action brought by any person injured by the violation or in a civil action brought by the Attorney General, a district attorney, or a city attorney where the covered establishment was located. In addition, employees are entitled to recover \$100 per day the until the notice violation is cured.

Amendments to Current Law

This ordinance would require large supermarkets to provide six months' notice of their intent to close permanently to the Board of Supervisors, the Director of the Office of Economic and Workforce Development, their customers, the Executive Director of the Human Services Agency and the public. For purposes of the notice requirement, a supermarket is defined to mean a food product and marketing establishment that sells a variety of food and is greater than 20,000 square feet in size.

A supermarket owner would be exempted from the notice requirement if the store closure is due to an emergency or circumstances that were not foreseeable at the time that notice would have been required, and where the owner is actively seeking financing to keep the store open, and believes that compliance with the notice requirement would compromise those efforts.

The ordinance would be enforceable by a private right of action. The proposed ordinance also provides that the City Attorney has the authority to institute civil proceedings for injunctive and monetary relief. It would be a defense to an action brought under the ordinance that compliance would have required disclosure of proprietary information or trade secrets.

Background

This legislative digest reflects amendments made at the October 17, 2024 meeting of the Government Audit and Oversight Committee. Specifically, on that date, the committee amended the ordinance to add the Executive Director of the Human Services Agency to the list of departments that must be notified of a store's planned closure, and to provide explicit authorization to the City Attorney to enforce the ordinance through civil proceedings.

In addition, the digest was updated to reflect the enactment of S.B. 89.

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