

Dear Chair Wiener:

At its meeting of February 10, 2014, the Small Business Commission heard Board of Supervisors (BOS) File No. 131207 [Environment Code - Bottled Water]. The Commission took no action on this item largely as a result of its concerns about the proposed legislation's scope and its likelihood to cause unintended consequences. Several of the Commission's concerns are interrelated, and I have summarized them below:

Mobile food facility (MFF) compliance

Mobile food facility (MFF) operators, which include both food trucks and pushcarts, will face unique challenges to compliance with the proposed legislation. Unlike vendors operating at fixed locations on City property, MFFs are spread throughout the city and often operate along streets or sidewalks in locations lacking access to potable water infrastructure for refilling containers. Furthermore, practical limitations on space within food trucks or on food carts will present difficult challenges for such operators attempting to ensure they meet customer demand for drinking water. Bulky water containers are much more difficult to fit and to transport than smaller packages of bottled water. It is likely this will lead to one of the following unintended consequences for MFF operators:

- a) water shortages, resulting in an inability to meet customer demand;
- b) overestimation of customer demand to prevent shortages, resulting in water waste; or,
- c) customers purchasing other bottled alternatives (juices or sodas) since grab-and-go customers are unlikely to carry an open cup of water.

The Commission expressed a desire to exclude on-street and on-sidewalk MFFs from the proposed legislation.

Juices and sodas

The Commission was curious about the decision to exclude from regulation the sale of plastic containers of juice and soda. These beverage types are sold in plastic bottles the same as bottled water, causing very similar waste generation. Yet, these types of beverages were not included in the proposed legislation. The Commission was concerned about this as it is likely to result in a greater share of customers purchasing less healthy bottled juices and sodas rather than a bottled water alternative.

Plastic cup waste

Most businesses complying with the proposed legislation are expected to utilize non-compostable plastic cups to provide water to customers since they are the most widely available and inexpensive option. Yet, use of these cups will simply shift plastic waste from bottle water itself to the proposed alternative service method, undermining the major goal of the legislation. The Commission felt it was important for the proposed legislation to prescribe environmentally-appropriate cup types that will avoid the creation of a different form of plastic waste.

Glass and metal water containers

Omitting glass and metal water containers from the ban was difficult for the Commission to understand given their own unique environmental impacts. Both production and recycling of glass and metal beverage containers is energy intensive, and it is unclear that the City's waste hauler is equipped to handle a potential uptick in these types of waste generated in response to the proposed legislation.

There are likely to be practical challenges for collection due to the larger mass and volume, and incompressibility, of glass and metal container waste.

In choosing to take no action, the Commission hoped to provide an opportunity for the legislative sponsor to further research many of the important – yet unanswered – questions raised during the hearing. It welcomed the legislative sponsor to present to the Commission again in hopes of garnering its support, and offered to partner in the development of a more comprehensive legislative proposal. The Commission and Office of Small Business staff look forward to improving this proposal and protecting the environment.

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