

BOARD of SUPERVISORS



City Hall
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MEMORANDUM

TO: Toney D. Chaplin, Interim Chief, Police Department

FROM: Linda Wong, Assistant Clerk, Budget and Finance Committee

DATE: January 19, 2017

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Budget and Finance Committee has received the following proposed legislation:

File No. 170030

Ordinance amending the Police Code to modify the penalties for unlawfully peddling goods.

If you have any comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c: Christine Fountain, Police Department

1 [Police Code - Penalties for Violations of Peddling License Requirement]

2
3 **Ordinance amending the Police Code to modify the penalties for unlawfully peddling**
4 **goods.**

5 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
6 **Additions to Codes** are in *single-underline italics Times New Roman font*.
7 **Deletions to Codes** are in ~~*italics Times New Roman font*~~.
8 **Board amendment additions** are in double-underlined Arial font.
9 **Board amendment deletions** are in ~~Arial font~~.
10 **Asterisks (* * * *)** indicate the omission of unchanged Code
11 subsections or parts of tables.

12 Be it ordained by the People of the City and County of San Francisco:

13 Section 1. The Police Code is hereby amended by revising Sections 869 and 869.1, to
14 read as follows:

15 **SEC. 869. PERMIT REQUIRED.**

16 Except as provided in Articles 24, 24.1, and 24.2 of this Code, it shall be unlawful for
17 any person to peddle goods, wares, or merchandise, or any article, material, or substance, of
18 whatsoever kind, including persons selling fruits, vegetables, fish, fowl, nuts, ~~and eggs,~~ *and*
19 *tickets of any kind* on the public streets or sidewalks of the City and County of San Francisco
20 without first having obtained a permit from the Chief of Police and having paid the fees and
21 been granted a license as required by law.

22 Excluded from the provisions of this Section 869 are property under the jurisdiction of
23 the Recreation and Park Commission of the City and County of San Francisco, and the Board
24 of Education of the City and County of San Francisco and areas designated by the Board of
25 Supervisors as places where a street artist certified pursuant to initiative Ordinance 483-75,
Proposition L on the November 4, 1975 ballot, may sell, offer for sale, expose for sale, or
solicit offers to purchase any craft or work of his or her own creation.

1 Every person currently holding a peddler permit pursuant to Section 869 of this Article
2 prior to the effective date of this ordinance is hereby deemed to be holding a permit as
3 required under this Section.
4

5 **SEC. 869.1. PENALTY.**

6 (a) Any person who shall violate the provisions of Sections 869 through 869.15 of
7 this Article shall be guilty of an infraction or a misdemeanor, except that peddling without a valid
8 permit required by Section 869 of this Article shall be a misdemeanor. Each act of peddling that
9 violates Sections 869 through 869.15 shall be considered a separate offense. If charged as an
10 infraction, the penalty shall be as follows:

11 (1) Upon a first conviction thereof, such person shall be punished by a fine
12 not to be less than \$50 nor to exceed ~~\$500~~ \$100.

13 (2) Upon a second conviction thereof within one year of the first conviction,
14 such person shall be punished by a fine not to exceed \$200 to be less than \$250 nor to exceed
15 \$500.

16 (3) Upon a third and any subsequent conviction thereof within one year of the first
17 conviction, such person shall be punished by a fine not to be less than \$400 nor to exceed
18 \$500.

19 If charged as a misdemeanor, the penalty therefor shall be by imprisonment in the
20 County Jail not exceeding six months or a fine not exceeding ~~\$500~~ \$1,000. The complaint
21 charging such violation shall specify whether the violation charged is a misdemeanor or an
22 infraction.

23 (b) In addition to the penalty set forth above in Section 869.1(a), any person who
24 shall violate any provision of Sections 869 through 869.15 shall be subject to revocation or
25

1 suspension of any permit issued by the City and County, following adequate notice and a
2 hearing before the Chief of Police or a designate.

3
4 Section 2. Effective Date. This ordinance shall become effective 30 days after
5 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
6 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
7 of Supervisors overrides the Mayor's veto of the ordinance.

8
9 Section 3. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
10 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
11 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
12 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
13 additions, and Board amendment deletions in accordance with the "Note" that appears under
14 the official title of the ordinance.

15
16 Section 4. Undertaking for the General Welfare. In enacting and implementing this
17 ordinance, the City is assuming an undertaking only to promote the general welfare. It is not
18 assuming, nor is it imposing on its officers and employees, an obligation for breach of which it
19 is liable in money damages to any person who claims that such breach proximately caused
20 injury.

21
22 Section 5. Severability. If any section, subsection, sentence, clause, phrase, or word of
23 this ordinance, or any application thereof to any person or circumstance, is held to be invalid
24 or unconstitutional by a decision of a court of competent jurisdiction, such decision shall not
25 affect the validity of the remaining portions or applications of this ordinance. The Board of

1 Supervisors hereby declares that it would have passed this ordinance and each and every
2 section, subsection, sentence, clause, phrase, and word not declared invalid or
3 unconstitutional without regard to whether any other portion of this ordinance or application
4 thereof would be subsequently declared invalid or unconstitutional.

5
6 APPROVED AS TO FORM:
7 DENNIS J. HERRERA, City Attorney

8 By:



9 BRADLEY A. RUSSI
10 Deputy City Attorney

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LEGISLATIVE DIGEST

[Police Code - Penalties for Violations of Peddling License Requirement]

Ordinance amending the Police Code to modify the penalties for unlawfully peddling goods.

Existing Law

Section 869 of the Police Code requires that any person who peddles "goods, wares, or merchandise, or any article, material, or substance" on City streets or sidewalks to obtain a permit from the Chief of Police. Peddling without a permit may be criminally charged as an infraction or a misdemeanor.

Amendments to Current Law

The proposed ordinance amends Section 869 of the Police Code to specifically identify the sale of tickets on City streets or sidewalks as requiring a peddling permit. The proposed ordinance also amends the penalties contained in Section 869.1 to make minor changes to the infraction penalties and to require that peddling without a permit be charged as a misdemeanor with a maximum penalty of a \$1,000 fine and six months' imprisonment.

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