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PERSPECTIVE

Street vending legitimized under state's retail food code

By Czarmaine C. Majan

Senate Bill 972 (SB 972), signed by Gov. Gavin Newsom, added a new chapter to the California Retail Food Code (CRFC) ("Code") this year – a milestone for food street or sidewalk vendors who can now legally participate in the economy. SB 972 promised to remove numerous legal hurdles for street vendors without compromising public health and consumer safety in modifying the CRFC and expanding specific requirements to accommodate and allow street food vendors to operate their businesses safely.

In 2018, sidewalk food vending was first decriminalized through Senate Bill 946. After that, however, local authorities could criminally cite vendors by enforcing CRFC regulations, which allowed misdemeanor charges for vendors who did not have the required health permits.

This year, SB 972 introduced "Compact Mobile Food Operation" (CMFO) as a new type of mobile food facility to the Code defined as a food facility from an individual, a non-motorized push-cart, stand, rack or display, pedal-driven cart, or wagon. The measure exempts CMFOs from specific requirements from the Code, like the required number of sinks, water heaters, electrical equipment, and other instruments that brick-and-mortar restaurants and other mobile food facilities are required to have. Furthermore, CMFOs may also be stored in private homes as long as contamination is prevented and do not pose any public health hazard.



Adriana Morales, 33, sells atole, a Mexican hot drink made of corn, sugar and cinnamon, near MacArthur Park in Los Angeles on Dec. 17, 2018. | New York Times News Service

The following lists, among other things, a few changes SB 972 introduced this year:

"Limited Food Preparation"

CMFOs may only conduct "limited food preparation," which is restricted to the heating, frying, baking, roasting, blending, shaving of ice, and dispensing or portioning non-potentially hazardous food immediately to a customer that has been temperature controlled before serving.

In addition, CMFOs that contain food displays must have overhead protection and proper storage from outdoor elements. As a result, food

vendors must ensure that any produce served has been appropriately washed, any pre-packaged hot or cold food has been prepared at a suitable facility like an approved private or commercial kitchen, and any reheated food must be stored at a proper temperature.

Food Handler's Card

Before this measure, anyone who handled or served potentially hazardous food was required to obtain food safety certification through an examination process. Due to the limited food preparation requirement, SB 972 exempts CMFO operators and employees from food

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safety certification as long as they demonstrate adequate knowledge of food safety principles relating to the food they specifically serve. In this case, a food handler's card is deemed sufficient to comply with CRFC.

Pre-approved Facility Plans

Local agencies may now pre-approve standard blueprint plans for CMFOs. As a result, individuals who want to operate such a food facility with pre-approved plans may no longer need to go through the planning submission process in their respective agencies. Never-

theless, the CMFO is still subject to a final inspection, where the enforcement agency may collect the permit fees after a finding that the facility conforms with the agency's pre-approved plan.

Administrative Penalty

Violations of CRFC provisions were punishable by fine and/or imprisonment as a misdemeanor or infraction. However, after Jan. 1, 2023, operating a CMFO without the required permits is now punishable only by an administrative penalty, subject to a reduction based on the violator's ability to

pay the fine. In addition, SB 972 specifies that the fine must only be up to three times the cost of the permit and that CMFO operators and employees cannot be subject to arrest absent independent grounds under the law. To enforce the new provisions, local authorities may have to inspect private homes where a CMFO is stored if the enforcement agency receives a consumer complaint and has a basis to suspect that the location is being used in violation of the Code, including but not limited to unauthorized food preparation, food storage, or any other food safety violations.

SB 972 does not prevent local agencies and authorities from adhering to regulations pertaining to those outside the CRFC. Local agencies may still manage the time, place, and manner of vending activities along with sidewalk accessibility or waste disposal and enforce their jurisdiction's nuisance policies. The measure does require local and health enforcement agencies to assess their internal processes and update them accordingly for a seamless transition.

For more information, visit the California Legislative Information website.