

Senate Bill No. 295–Senators Doñate and Flores

Joint Sponsors: Assemblymembers González,  
Moore and D’Silva

CHAPTER.....

AN ACT relating to food establishments; requiring certain local boards of health to provide certain information relating to sidewalk vendors and compact food cart vendors; establishing requirements for a compact food cart vendor; authorizing a registered compact food cart vendor to sell certain food items; setting forth certain requirements for the regulation of sidewalk vendors and compact food cart vendors by certain local boards of health and certain local zoning boards, planning commissions and local governments; exempting an establishment that sells or offers or displays for sale certain foods and a compact food cart vendor from the definition of “food establishment”; revising certain requirements which certain local boards of health are required to adopt relating to sidewalk vendors who sell food; prohibiting certain governmental bodies from limiting the types of food that may be sold by a sidewalk vendor or compact food cart vendor; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

Existing law requires a local board of health in a county whose population is 100,000 or more (currently Clark and Washoe Counties) or a city in a county whose population is 100,000 or more to adopt regulations governing sidewalk vendors of food. (NRS 446.861) **Sections 3 and 5** of this bill define certain terms relating to sidewalk vendors.

**Section 7** of this bill requires a local board of health to: (1) develop and update certain guidance documents explaining the requirements of existing regulations adopted by the local board of health governing sidewalk vendors and compact food cart vendors; and (2) make certain documents available on the Internet website of the local board of health in more than one language.

**Section 6** of this bill limits the applicability of **sections 6-11.5** of this bill to a local board of health in a county whose population is 100,000 or more or a city in a county whose population is 100,000 or more.

**Section 13** of this bill requires a local board of health to adopt regulations governing sidewalk vendors of food, including requirements relating to: (1) the plans for the design of a nonstationary conveyance and the use of modular conveyances by a sidewalk vendor; (2) the use of certain sinks by a sidewalk vendor; and (3) the storage of a conveyance in a private home.

**Section 9.5** requires a person who wishes to operate as a compact food cart vendor to register with the local board of health and pay the fee established by regulation of the local board of health, if such a fee has been established. **Section 2.5** of this bill defines “compact food cart vendor” to mean a person who sells certain food items from a nonstationary conveyance. **Section 9.5** also requires a



compact food cart vendor to comply with certain ordinances and regulations adopted by the governing body of a county, city or unincorporated town that regulates sidewalk vendors. **Section 9.5** prohibits a compact food cart vendor from operating at a special event unless the compact food cart vendor complies with certain requirements. **Section 9.5** further: (1) provides that a registration as a compact food cart vendor is valid for a period of 1 year; (2) sets forth a process for the renewal of such registration; and (3) requires the payment of a renewal fee established by regulation of the local board of health, if such a fee has been established.

**Section 10** authorizes a compact food cart vendor to sell certain food items, which must be purchased prepackaged or prepared in a commercial grade kitchen or on the conveyance.

**Section 11.5** provides, with certain exceptions, that the provisions of existing law and **sections 2-11.5** of this bill do not prohibit a local zoning board, planning commission or governing body of a county, city or unincorporated town from adopting certain ordinances and regulations that: (1) prescribe the locations where sidewalk vendors and compact food cart vendors are allowed to operate; (2) authorize the seizure of food items, a conveyance, any cooking apparatus or other products; and (3) authorize the destruction of certain food items. **Sections 11.5, 14.3 and 14.7** of this bill further prohibit, with certain exceptions, such governmental entities from limiting the types of food items a sidewalk vendor or compact food cart vendor may sell if such food items comply with the regulations of a local board of health or are authorized by **section 10**.

**Section 9** requires a local board of health to: (1) prepare, maintain and make publicly available on the Internet website of the local board of health a list of food items that have been approved by the local board of health and a model menu of preapproved food items that may be sold by a sidewalk vendor; and (2) establish a process to preapprove certain food items sold from a conveyance.

Existing law defines the term “food establishment” for the purposes of existing law relating to food establishments and sets forth certain exceptions from the definition. (NRS 446.020) **Section 12** of this bill exempts from the definition of “food establishment”: (1) any establishment in which only whole produce or commercially prepackaged food which is not a potentially hazardous food is sold or offered or displayed for sale; and (2) a compact food cart vendor. As a result of this change, such an establishment and a compact food cart vendor are not subject to the existing requirements governing food establishments.

**Section 2** applies the definitions in **sections 2.5, 3 and 5** to the provisions of existing law relating to food establishments.

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

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THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

**Section 1.** Chapter 446 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 11.5, inclusive, of this act.

**Sec. 2.** *As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 446.0145 to*



*446.069, inclusive, and sections 2.5, 3 and 5 of this act have the meanings ascribed to them in those sections.*

*Sec. 2.5. "Compact food cart vendor" means a person who sells the food items described in section 10 of this act from a nonstationary conveyance.*

*Sec. 3. "Conveyance" includes, without limitation, a pushcart, stand, display, pedal-driven cart, wagon, showcase or rack.*

*Sec. 4. (Deleted by amendment.)*

*Sec. 5. "Sidewalk vendor" means a person who sells food upon a public sidewalk or other pedestrian path from a conveyance. The term includes a nonstationary sidewalk vendor and a stationary sidewalk vendor.*

*Sec. 6. The provisions of NRS 446.861 and sections 6 to 11.5 of this act apply only to a local board of health in a county whose population is 100,000 or more or a city in a county whose population is 100,000 or more.*

*Sec. 7. A local board of health shall:*

*1. Develop and update guidance documents which explain any requirements adopted in accordance with NRS 446.861 and sections 9.5 and 10 of this act governing sidewalk vendors and compact food cart vendors, including, without limitation, the process for a person to apply to the local board of health for a permit, license or other authorization or register with the local board of health, as applicable.*

*2. Make available on the Internet website of the local board of health all guidance documents developed pursuant to subsection 1 and all documents necessary to apply to the local board of health for a permit, license or other authorization or register with the local board of health, as applicable. All such documents must be clearly visible, easily accessible and available on the Internet website of the local board of health in more than one language.*

*Sec. 8. (Deleted by amendment.)*

*Sec. 9. 1. A local board of health shall prepare, maintain and make publicly available on the Internet website of the local board of health:*

*(a) A list of food items that have been preapproved by the local board of health pursuant to subsection 2 for sale on a conveyance; and*

*(b) A model menu of preapproved food items that may be sold by a sidewalk vendor.*



↳ *The documents required to be maintained pursuant to this subsection must be clearly visible, easily accessible and available in more than one language.*

*2. The local board of health shall establish a process to preapprove food items that may be sold by a sidewalk vendor.*

**Sec. 9.5.** *1. A person who wishes to operate as a compact food cart vendor must:*

*(a) Register with the local board of health by submitting such information required by the local board of health, which must include, without limitation:*

*(1) The name, address and contact information of the person operating as a compact food cart vendor;*

*(2) A list of food items set forth in section 10 of this act that will be sold by the compact food cart vendor;*

*(3) A description of the general area in which the compact food cart vendor will operate;*

*(4) The business name of the compact food cart vendor;*  
*and*

*(5) The plans for the design of the nonstationary conveyance from which the compact food cart vendor will operate;*  
*and*

*(b) If the local board of health prescribed by regulation a fee for registration, pay the fee in the amount established by the local board of health.*

*2. A compact food cart vendor shall comply with NRS 244.35484 and 268.097994 and any ordinance or regulation adopted by the governing body of a county, city or unincorporated town that regulates sidewalk vendors, including, without limitation, any requirements concerning the size of a conveyance.*

*3. A compact food cart vendor must display a sign on the conveyance that is at least 8 inches by 12 inches in size and that states in English and Spanish in at least 36-point font that all food items offered for sale are "MADE BY A COMPACT FOOD CART VENDOR THAT IS NOT SUBJECT TO GOVERNMENT FOOD SAFETY INSPECTION."*

*4. A local board of health may authorize the use of a stand-alone sink or a sink in a nearby facility by a compact food cart vendor to satisfy any requirements adopted by the local board of health for handwashing and warewashing, provided that such a sink is not more than 10 feet away from the conveyance and there is not a physical barrier between such a sink and the conveyance.*

*5. A compact food cart vendor shall not operate at a special event unless the compact food cart vendor has obtained a permit,*



*license or authorization from the local board of health pursuant to NRS 446.861 to operate as a sidewalk vendor and has complied with all other requirements of the local board of health and the relevant local governments for operating at the special event.*

*6. The registration of a compact food cart operation is valid for a period of 1 year. A compact food cart vendor may renew his or her registration if there have been no changes to the food items, conveyance or areas which the compact food cart vendor serves by submitting to the local board of health:*

*(a) A letter certifying that there have been no changes to the food items, conveyance or areas which the compact food cart vendor serves; and*

*(b) If the local board of health prescribed by regulation a fee for renewing the registration, the fee in the amount established by the local board of health.*

*7. The regulations adopted by a local board of health in accordance with NRS 446.861 do not apply to a compact food cart vendor that registers pursuant to this section to sell any food items set forth in section 10 of this act.*

**Sec. 10.** *1. Except as otherwise provided by federal law or regulation and notwithstanding any other provision of state law, a compact food cart vendor that registers with a local board of health pursuant to section 9.5 of this act may sell the following food items, which must be purchased, prepackaged or prepared by the compact food cart vendor in a commercial grade kitchen or on the conveyance of the compact food cart vendor:*

*(a) Subject to any requirements of NRS 584.099 to 584.107, inclusive, shaved ice which may include a supplemental fruit-based or artificially-flavored syrup added to the shaved ice on the conveyance;*

*(b) Aguas frescas that are not alcoholic;*

*(c) Corn chips or potato chips which may include, without limitation, any supplemental seasonings, flavorings or food additives;*

*(d) Corn on the cob which may be garnished on the conveyance with crumbled parmesan cheese or with mayonnaise or margarine spread that contains shelf-stable ingredients and was purchased from a grocery store within the previous 7 days;*

*(e) Any wheat based snack that is deep-fried or baked and made from wheat flour, cornstarch, baking soda and salt;*

*(f) Tea that is prepared on the conveyance by steeping in water cured or fresh leaves, herbs, flowers, fruits or any other plant material and may include any additive that is shelf-stable and*



*prepackaged and purchased from a grocery store or other food establishment in a manner that protects the food item from contamination during transport, display, sale and acquisition by consumers and that does not contain dairy products;*

*(g) Coffee that is non-alcoholic and which may include, without limitation, sweeteners, powdered milk, flavorings or spices;*

*(h) Juice that is non-alcoholic and prepared mechanically or manually by pressing, squeezing, blending or juicing and may include, without limitation, sweeteners, spices and natural flavorings;*

*(i) Candy lollipops which may include, without limitation, flavorings, color additives or other ingredients, including, without limitation, chocolate, fruit extracts, dairy or gelatin;*

*(j) Subject to any requirements of NRS 584.099 to 584.107, inclusive, frozen or semi-frozen ice treats that do not contain dairy products and which may be garnished on the conveyance with seasonings and shelf-stable vinegar-based sauces;*

*(k) Nachos consisting of corn-based tortilla chips and topped with ingredients which may include, without limitation, shelf-stable pickled vegetables or shelf-stable nacho cheese purchased prepackaged from a grocery store or other food establishment in a manner that protects the food item from contamination during transport and melted on the conveyance and may not include meat;*

*(l) Fresh-cut fruit which may be garnished on the conveyance with ground chili peppers, salt, lime citric acid or shelf-stable vinegar-based sauces or any other food items marketed for use with fruit that are shelf-stable and purchased prepackaged from a grocery store or other food establishment in a manner that protects the food item from contamination during transport;*

*(m) Dry snack foods, including, without limitation, potato chips, corn chips or peanuts, which are purchased prepackaged from a grocery store or other food establishment in a manner that protects the food item from contamination during transport and to which liquid condiments primarily made using chili peppers may be added to the snack food on the conveyance;*

*(n) Baked goods which are shelf-stable and prepackaged from a grocery store or other food establishment in a manner that protects the food item from contamination during transport, display, sale and acquisition by consumers;*

*(o) Any other food item that does not require time or food controls for food safety; and*



*(p) Any other food item, including, without limitation, a non-alcoholic beverage, that the local board of health deems appropriate.*

*2. A local board of health may require a compact food cart vendor to dispose of food items at the end of a business day or provide disposable utensils to customers.*

*3. As used in this section, "shelf-stable" means food items that can be safely stored at room temperature.*

**Sec. 11.** (Deleted by amendment.)

**Sec. 11.5.** *1. Except as otherwise provided in this section and NRS 244.35484 and 268.097994, nothing in NRS 446.861 and sections 2 to 11.5, inclusive, of this act, shall be construed to prohibit a local zoning board, planning commission or governing body of a county, city or unincorporated town from adopting any ordinance or other regulation that protects public health and safety or regulates the time, place or manner in which sidewalk vendors and compact food cart vendors operate, including, without limitation:*

*(a) Prescribing the locations where sidewalk vendors and compact food cart vendors are allowed to operate;*

*(b) Authorizing the seizure of food items, including, without limitation, beverages, a conveyance, any cooking apparatus or any other product being sold or offered for sale in violation of state or local law for the purpose of protecting public health and safety; or*

*(c) Authorizing the destruction of food items that are not safe for human consumption.*

*2. A local zoning board, planning commission or governing body of a county, city or unincorporated town shall not adopt an ordinance or regulation limiting the types of food items that a sidewalk vendor or compact food cart vendor may sell, if such food items comply with the regulations established by a local board of health pursuant to NRS 446.861 and 446.940 or section 10 of this act, as applicable.*

**Sec. 12.** NRS 446.020 is hereby amended to read as follows:

446.020 *1. Except as otherwise limited by subsection 2, "food establishment" means any place, structure, premises, vehicle or vessel, or any part thereof, in which any food intended for ultimate human consumption is manufactured or prepared by any manner or means whatever, or in which any food is sold, offered or displayed for sale or served.*

*2. The term does not include:*



(a) Private homes, unless the food prepared or manufactured in the home is sold, or offered or displayed for sale or for compensation or contractual consideration of any kind;

(b) Fraternal or social clubhouses at which attendance is limited to members of the club;

(c) Vehicles operated by common carriers engaged in interstate commerce;

(d) Any establishment in which religious, charitable and other nonprofit organizations sell food occasionally to raise money or in which charitable organizations receive salvaged food in bulk quantities for free distribution, unless the establishment is open on a regular basis to sell food to members of the general public;

(e) Any establishment where animals, including, without limitation, mammals, fish and poultry, are slaughtered which is regulated pursuant to chapter 583 of NRS;

(f) Dairy farms and plants which process milk and products of milk or frozen desserts which are regulated under chapter 584 of NRS;

(g) The premises of a wholesale dealer of alcoholic beverages licensed under chapter 369 of NRS who handles only alcoholic beverages which are in sealed containers;

(h) A facility that produces eggs which is regulated pursuant to chapter 583 of NRS;

(i) A cottage food operation that meets the requirements of NRS 446.866 with respect to food items as defined in ~~[that section;]~~ ***NRS 446.866;***

(j) A craft food operation that meets the requirements of NRS 587.6945 with respect to food items as defined in that section; ~~[or]~~

(k) A farm for purposes of holding a farm-to-fork event ~~[;]~~;

***(l) Any establishment in which only whole produce or a commercially prepackaged food item which is not a potentially hazardous food item is sold or offered or displayed for sale, provided that the space in which such food items are displayed or stored is not more than 150 square feet; or***

***(m) A compact food cart vendor that meets the requirements of section 9.5 of this act with respect to the food items set forth in section 10 of this act.***

3. As used in this section, "poultry" has the meaning ascribed to it in NRS 583.405.

**Sec. 13.** NRS 446.861 is hereby amended to read as follows:

446.861 1. ~~[A]~~ ***Except as otherwise provided in sections 9.5 and 11.5 of this act, a local board of health [in a county whose population is 100,000 or more or a city in a county whose***



~~population is 100,000 or more~~ shall adopt regulations pursuant to NRS 446.940 regulating sidewalk vendors of food which must, without limitation:

(a) Establish a process for a person to apply to the local board of health for a permit, license or other authorization to operate as a sidewalk vendor. ~~;~~

(b) Provide for a person applying for a permit, license or other authorization for sidewalk vending to pay any fees required by the local board of health using a payment plan. ~~;~~

(c) Establish procedures for a person seeking to operate as a sidewalk vendor who does not have a driver's license or identification card issued by this State or another state, the District of Columbia or any territory of the United States to obtain any certification required by the local board of health as a food handler. ~~;~~

*(d) Authorize the use of modular conveyances, conveyances that can be disassembled for transportation and cleaning and conveyances that include equipment fastened to a cart that is not permanently welded to the conveyance.*

*(e) Authorize the use of a stand-alone sink or a sink in a nearby facility by a sidewalk vendor to satisfy requirements adopted by the local board of health for handwashing and warewashing, provided that such a sink is not more than 10 feet away from the conveyance and there is not a physical barrier between such a sink and the conveyance.*

*(f) Authorize the storage of not more than two conveyances in a private home. Such regulations may impose reasonable restrictions, including, without limitation, requiring that conveyances be stored in accordance with any other law or ordinance governing storage, health and safety in a private home.*

(g) Include any other regulation determined to be necessary by the Task Force on Safe Sidewalk Vending pursuant to NRS 225.610.

2. ~~[As used in this section, "sidewalk vendor" means a person who sells food upon a public sidewalk or other pedestrian path from a conveyance, including, without limitation, a pushcart, stand, display, pedal-driven cart, wagon, showcase or rack. The term includes a nonstationary sidewalk vendor and a stationary sidewalk vendor.] A local board of health may adopt regulations pursuant to NRS 446.940:~~

*(a) Requiring that a sidewalk vendor possess a certificate as a food handler or as a food manager; or*



*(b) Establishing an expedited process for a person seeking to operate as a sidewalk vendor.*

*3. The terms used in any regulations adopted pursuant to this section must be the same as those used in this section and must be consistent with those used in any other regulation adopted by a local board of health relating to sidewalk vendors.*

**Sec. 14.** (Deleted by amendment.)

**Sec. 14.3.** NRS 244.35483 is hereby amended to read as follows:

244.35483 1. A board of county commissioners may adopt an ordinance regulating sidewalk vendors in accordance with the requirements of NRS 244.35481 to 244.35488, inclusive.

2. Except as otherwise provided in NRS 244.35481 to 244.35488, inclusive, a board of county commissioners shall not:

(a) Enact or enforce a complete prohibition on sidewalk vendors.

(b) Impose a criminal penalty on the act of sidewalk vending in a residential area.

*(c) Limit the types of food that a sidewalk vendor may sell if such food items comply with the regulations established by a local board of health pursuant to NRS 446.861 and 446.940 or section 10 of this act for a compact food cart vendor, as that term is defined in section 2.5 of this act.*

3. A board of county commissioners that does not adopt an ordinance that complies or substantially complies with NRS 244.35481 to 244.35488, inclusive, shall not cite, fine or prosecute a sidewalk vendor for a violation of any rule or regulation that is inconsistent with the provisions of NRS 244.35481 to 244.35488, inclusive.

4. If a board of county commissioners adopts an ordinance pursuant to this section, the board of county commissioners shall post on its Internet website a map of the zones where a person may engage in the act of sidewalk vending.

**Sec. 14.7.** NRS 268.097993 is hereby amended to read as follows:

268.097993 1. A city council or other governing body of an incorporated city may adopt an ordinance regulating sidewalk vendors in accordance with the requirements of NRS 268.097991 to 268.097998, inclusive.

2. Except as otherwise provided in NRS 268.097991 to 268.097998, inclusive, a city council or other governing body of an incorporated city shall not:



(a) Enact or enforce a complete prohibition on sidewalk vendors.

(b) Impose a criminal penalty on the act of sidewalk vending in a residential area.

*(c) Limit the types of food that a sidewalk vendor may sell if such food items comply with the regulations established by a local board of health pursuant to NRS 446.861 and 446.940 or section 10 of this act for a compact food cart vendor, as that term is defined in section 2.5 of this act.*

3. A city council or other governing body of an incorporated city that does not adopt an ordinance that complies or substantially complies with NRS 268.097991 to 268.097998, inclusive, shall not cite, fine or prosecute a sidewalk vendor for a violation of any rule or regulation that is inconsistent with the provisions of NRS 268.097991 to 268.097998, inclusive.

4. If a city council or other governing body of an incorporated city adopts an ordinance pursuant to this section, the city council or other governing body shall post on its Internet website a map of the zones where a person may engage in the act of sidewalk vending.

**Sec. 15.** Any ordinance, regulation or rule of a county or city which conflicts with the provisions of this act is void and unenforceable.

**Sec. 16.** The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.



