

Date of Hearing: July 15, 2025

Counsel: Ilan Zur

ASSEMBLY COMMITTEE ON PUBLIC SAFETY

Nick Schultz, Chair

SB 276 (Wiener) – As Amended May 6, 2025

UPDATED

As Proposed to be Amended in Committee

SUMMARY: Authorizes the City and County of San Francisco (San Francisco) to impose criminal penalties on sidewalk vendors that sell specified goods without a permit. Specifically, **this bill:**

- 1) Provides that, notwithstanding the prohibition against local authorities regulating sidewalk vendors except as otherwise specified, San Francisco may adopt an ordinance requiring a permit for the sale, on public property, including public streets or sidewalks, of merchandise that San Francisco has determined is a common target of retail theft.
- 2) Requires such an ordinance, if adopted, to include the following written findings supported by substantial evidence in the record:
 - a) That there has been a significant pattern of merchandise being the subject of retail theft and then appearing for sale on public property within San Francisco.
 - b) That requiring a permit to sell will further the objective of preventing retail theft.
 - c) That there are reasonable permit requirements to enable the lawful sale of merchandise and to safeguard civil rights.
 - d) That multiple non-law-enforcement measures to address the resale of stolen goods were attempted prior to adopting the ordinance, including opening marketplaces where vendors may sell items, reducing or removing permit fees, expanding efforts to combat retail theft, partnering with local nonprofit organizations to triage needs of vendors and their families, and offering wraparound support services, resource fairs, marketing support, trainings on entrepreneurship and business development, workforce development opportunities, and support to open brick and mortars if desired.
- 3) Excludes food items that are prepared for sale onsite or prepackaged, including a bag of chips or a nonalcoholic beverage that is sold along with a food item that is prepared for sale onsite, from the definition of “merchandise.”
- 4) Authorizes such an ordinance to remain in effect for up to three years, subject to annual approval of the written findings by resolution of the San Francisco Board of Supervisors, and subject to the filing of an annual report, as specified below.

- 5) Requires such an ordinance to identify a local permitting agency, separate from the San Francisco Police Department, to be responsible for administering a permit system, and requires that agency to:
 - a) Adopt rules and procedures for administering the permit system; and
 - b) Issue permits to persons who are able to demonstrate that they obtained the merchandise lawfully and not through theft or extortion.
- 6) Authorizes such an ordinance to punish the selling of merchandise without a permit as follows:
 - a) A written warning for a first violation.
 - b) An infraction for a second or third violation within 18 months of the time of the first violation.
 - c) An alternate infraction/misdemeanor for subsequent violations after three prior violations, and that occur within 18 months of the time of the first violation, punishable up to six months in county jail, or by both imprisonment and a fine.
- 7) Provides that a violation resulting in a misdemeanor or infraction shall be eligible for dismissal, and for automatic conviction record relief, as specified, and as applicable.
- 8) Requires San Francisco, at least 60 calendar days prior to the enactment of the ordinance, to hold one or more workshops to inform the development of the ordinance by soliciting feedback from the vendor community.
- 9) Provides that the workshop shall solicit input on the proposed ordinance, including, but not limited to, input regarding the methods by which street vendors currently acquire goods and feasible methods by which street vendors can keep records.
- 10) Requires San Francisco, for at least 30 calendar days prior to the enactment of such an ordinance, to administer a public information campaign, including public announcements in major media outlets and press releases, subject to the following:
 - a) Information shall be made available in English, Spanish, Mandarin, Cantonese, Tagalog, and Vietnamese.
 - b) The public information campaign shall describe the city and county's program, including how vendors may obtain the required permits, how they demonstrate they obtained merchandise lawfully, and where they can ask questions about the process.
 - c) San Francisco shall also provide trainings and workshops, and shall conduct street-level outreach and distribute informational flyers on these topics.
- 11) Authorizes San Francisco to charge a fee for the cost of issuing a permit, not to exceed the reasonable regulatory costs of implementation, as specified. The fee shall not exceed \$25 for an applicant that meets either of the following conditions:

- a) The applicant earns less than 200 percent of the area median income; or
 - b) The applicant is a current enrollee in, or recipient of, CalWORKs, CalFresh, general assistance, Medi-Cal, Supplemental Security Income, the State Supplementary Payment Program, the California Special Supplemental Nutrition Program for Women, Infants, and Children, the California Alternate Rates for Energy (CARE), or the Family Electric Rate Assistance program.
- 12) Requires the permitting agency to accept a California driver's license or identification number, an individual taxpayer identification number, or a municipal identification number in lieu of a social security number if the permitting agency otherwise requires a social security number for the issuance of a permit or business license, and the number collected shall not be available to the public for inspection, shall be confidential, and shall not be disclosed except as required to administer the permit or licensure program or to comply with a state law or state or federal court order.
- 13) Prohibits the permitting agency from:
- a) Inquiring into or collecting information about an individual's immigration or citizenship status or place of birth.
 - b) Inquiring into or collecting information or documentation regarding an individual's criminal history, including requiring an applicant to submit fingerprints or a LiveScan, or submit to a background check, as part of an application for a permit or valid business license for sidewalk vending.
- 14) Requires the permitting agency to submit a report to the San Francisco Board of Supervisors and to the relevant committees of the Legislature, by January 1 of each year, that includes all of the following:
- a) The local permitting agency that was made responsible for administering the permit system.
 - b) The rules and procedures the permitting agency adopted for administering the permit system.
 - c) The list or lists of merchandise that San Francisco determined was a common target of retail theft.
 - d) Whether San Francisco elected to renew its ordinance and, if so, when.
 - e) The total number of permits issued.
 - f) The method by which the local permitting agency determined whether an applicant for a permit was able to demonstrate that they obtained merchandise lawfully and not through theft or extortion.

- g) The total number of infractions and misdemeanors issued, and the number for which convictions were reached.
- h) The race or ethnicity, gender, and age of the person issued an infraction or misdemeanor, provided that the identification of these characteristics was solely based on the observation and perception of the local authority who issued the infraction or misdemeanor.
- i) The actions taken by a local authority when issuing infractions or misdemeanors, including, but not limited to, all of the following:
 - i) Whether the local authority asked for consent to search the person, and, if so, whether consent was provided.
 - ii) Whether the local authority searched the person or any property, and, if so, the basis for the search and any contraband or evidence discovered.
 - iii) Whether the local authority seized any property and, if so, the type of property that was seized and the basis for seizing the property.

15) Establishes a sunset date of January 1, 2031.

16) Includes findings and declarations.

17) Includes an urgency clause.

EXISTING LAW:

- 1) Provides that a city or county may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws. (Cal. Const. Art. XI, Sec. 7.)
- 2) Defines “sidewalk vendor” to mean a person who sells food or merchandise from a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other non-motorized conveyance, or from one’s person, upon a public sidewalk or other pedestrian path. (Gov. Code, § 51036, subd. (a).)
- 3) Prohibits a city or county (local authority) from regulating sidewalk vendors unless those authorities comply with the below requirements. (Gov. Code, § 51037, subd. (a).)
- 4) Authorizes a local authority to adopt a program to regulate sidewalk vendors, but prohibits:
 - a) Requiring a sidewalk vendor to operate within specific parts of the public right-of-way, except when that restriction is directly related to objective health, safety, or welfare concerns.
 - b) Prohibiting a sidewalk vendor from selling food or merchandise in a park owned or operated by the local authority, except as specified, although it may adopt requirements

regulating the time, place, and manner of sidewalk vending in a park owned or operated by the local authority if specified requirements are met.

- c) Requiring a sidewalk vendor to first obtain consent from any nongovernmental entity or individual selling food or merchandise.
 - d) Restricting sidewalk vendors from operating only in a designated neighborhood or area, except when that restriction is directly related to objective health, safety, or welfare concerns, although a local authority may prohibit stationary sidewalk vendors in areas that are zoned exclusively residential.
 - e) Restricting the overall number of sidewalk vendors permitted to operate within its jurisdiction, unless the restriction is directly related to objective health, safety, or welfare concerns. (Gov. Code, § 51038, subds. (a) & (b).)
- 5) Authorizes a local authority to adopt additional requirements regulating the time, place, and manner of sidewalk vending if the requirements are directly related to objective health, safety, or welfare concerns. (Gov. Code, § 51038, subd. (c).)
 - 6) Authorizes administrative fines of between up to \$100 and \$1,000 for violating a local authority's sidewalk vending program. (Gov. Code, § 51039, subd. (a)(1) & (3).)
 - 7) Authorizes a local authority to rescind a permit issued to a sidewalk vendor for the term of that permit upon a fourth or subsequent violation. (Gov. Code, § 51039, subd. (a) (2).)
 - 8) Prohibits punishing a person's failure to pay such an administrative fine from being punished an infraction or misdemeanor. (Gov. Code, § 51039, subd. (c).)
 - 9) Prohibits a violation of a local authority's sidewalk vending program from being punishable as an infraction or misdemeanor, and prohibits the person alleged to have violated any of those provisions from being arrested, except when permitted under law. (Gov. Code, § 51039, subd. (d).)
 - 10) Punishes petty theft as a misdemeanor punishable by fine not exceeding \$1,000, or by imprisonment in the county jail not exceeding six months, or by both. (Pen. Code, § 490.)
 - 11) Defines grand theft as theft of money, labor, real or personal property of a value exceeding \$950, and punishes grand theft as a an alternate misdemeanor/felony punishable by up to one year in county jail, or by imprisonment in county jail for 16 months, two years, or three years (Pen. Code, §§ 487, 489.)
 - 12) Makes it a crime to buy or receive stolen property. If the value of the property is less than \$950, the offense is a misdemeanor punishable by up to one year in county jail. If the value of the property is over \$950, the offense is punishable as an alternate misdemeanor/felony punishable by up to one year in county jail, or by imprisonment in county jail for 16 months, two years, or three years (Pen. Code, §§ 487, 489, 496.)
 - 13) Provides that a person who unlawfully possesses property acquired through one or more acts of shoplifting, theft, or burglary from a retail business, where the property is not possessed

for personal use and the person has the intent to sell, exchange, or return the merchandise for value, or the intent to act in concert with one or more persons to sell, exchange, or return the merchandise for value; and value of the possessed property exceeds \$950, is guilty of unlawful deprivation of a retail business opportunity, punishable by imprisonment in a county jail not exceeding one year or by imprisonment in county jail for 16 months, two years, or three years. (Pen. Code, § 496.6.)

FISCAL EFFECT: Unknown

COMMENTS:

- 1) **Author's Statement:** According to the author, “San Francisco’s vibrant culture of street vending supports many families and showcases the diversity of our communities. But that cultural richness is threatened when bad actors are allowed to openly sell stolen goods on our streets, often pushing out legitimate street vendors and undermining public safety.

“SB 276 recognizes that a narrowly tailored, surgical response, which accounts for the realities and benefits of these local economies, is needed in order to adequately address the issue of illegal fencing. This bill does so by allowing San Francisco to create additional permitting requirements to sell items they have determined are commonly associated with retail theft and to give law enforcement the tools to hold bad actors accountable.”

- 2) **Background:** Prior to 2019, local jurisdictions had sole authority to regulate or ban sidewalk vending as they saw fit. In 2018, however, the Legislature passed SB 946 (Lara), Chapter 459, Statutes of 2018, which prohibited local governments from banning sidewalk vending and established various parameters for local ordinances seeking to regulate sidewalk vending. Under SB 946, local authorities are permitted to restrict sidewalk vendors from operating in certain areas, and regulate the time, place, and manner of sidewalk vending, such as requiring vendors to obtain a permit, where the restriction or requirements directly relate to objective health, safety, or welfare concerns. SB 972 (Gonzalez), Chapter 489, Statutes of 2022 further refined the sidewalk vending law by establishing a new retail food facility type, known as a “compact mobile food operation” (CMFO), which is a mobile food facility that operates as a pushcart or stand, and establishing a regulatory framework for CMFOs.

In recent years public attention and media focus on retail theft – and specifically, organized retail theft – have noticeably increased. Images and videos of smash and grabs of high-end retailers and people running out of stores with grocery carts loaded with stolen goods have become ubiquitous. In 2022, the Public Policy Institute of California (PPIC) published a blog post in which it reported that its examination of retail theft and robbery pointed toward recent increases across the state, with significant jumps in the Bay Area, the Central Valley and in Southern Coastal California.¹ According to the report, “the 2022 data shows that while California’s shoplifting rate jumped notably in 2022, it remains lower than it was at any point in the decade before the pandemic.”² It further noted that “the challenges of retail theft and robbery appear to be widespread, but they vary across the state.”³ Data from 2023 showed

¹ PPIC, *Retail Theft and Robbery Rates Have Risen Across California* (Sept. 7, 2023) <<https://www.ppic.org/blog/retail-theft-and-robbery-rates-have-risen-across-california/>> [as of July 7, 2025].

² *Ibid.*

³ *Ibid.*

that commercial burglaries fell by 9% compared to the previous year, but shoplifting continued to rise.⁴ Another analysis conducted by the Little Hoover Commission notes that “reported retail theft has ticked up since 2019, but remains at roughly the same level it was during the 2010s and lower than it was in earlier decades.”⁵

The rise in retail theft in the Bay Area corresponded with the resale of illegally acquired goods, often through street vendors, a practice also known as “fencing.” On Mission Street in San Francisco, a street market for stolen items developed, at one point covering a stretch of 10 blocks.⁶ In response to community complaints about illegal vending, vending of stolen goods, theft, assaults and vandalisms occurring on Mission Street, on November 27, 2023, San Francisco issued Public Works Order No. 208803, which banned street vending for 90 days (which was later extended) within a 300-foot radius of the Mission Street corridor.⁷ The order cited a host of health and safety issues associated with the fencing activity, including that between October 10, 2022, and October 10, 2023, the San Francisco Police Department received 580 calls for service or on-viewed incidents in this area, whereby the three most common types of calls related to assault and battery, petty theft, and vandalism.⁸ The City subsequently launched two sanctioned vending cites, although vendors reported significant reductions in sales, leading one of these cites to close.⁹ The City has since launched a pilot program that authorized ten vendors, selected through a lottery process, to return to sell their goods on a portion of Mission Street.

Nevertheless, crime rates in San Francisco have significantly dropped in recent years, and at a rate far faster than in other cities of similar size.¹⁰ In 2024, reported crime in San Francisco fell to *its lowest point in two-decades*.¹¹ From 2023-2024 reported property crimes dropped 31% and reported violent crimes fell by 14%.¹² An analysis of changes in violent and property crime in cities with 500,000 to 1,000,000 persons from January 2024 to January 2025 found that San Francisco had the largest decrease in property crime.¹³

- 3) **Effect of This Bill:** This bill seeks to address the issue of illegal fencing by authorizing San Francisco to impose criminal penalties for sidewalk vendors that sell specified merchandise without a permit. It contains several notable provisions.

⁴ PPIC, *Commercial Burglaries Fell in 2023, but Shoplifting Continued to Rise* (August 2, 2024) <<https://www.ppic.org/blog/commercial-burglaries-fell-in-2023-but-shoplifting-continued-to-rise/#:~:text=Recently%20released%20crime%20statistics%20for,above%20their%20pre%2Dpandemic%20level>> [as of July 7, 2025].

⁵ Little Hoover Commission, *Retail Theft: A Data-Driven Response for California* (July 2024), at p. 5 <https://lhc.ca.gov/wp-content/uploads/Report_RetailTheft-1.pdf> [as of July 7, 2025].

⁶ The Voice of San Francisco, *San Francisco Standard article on Mission street vendors attracts backlash* (Dec. 5, 2024) <<https://thevoicesf.org/san-francisco-standard-article-on-mission-street-vendors-attracts-backlash/>> [as of July 7, 2025].

⁷ San Francisco Public Works, *Public Works Order No: 208803* (Nov. 27, 2023), at p. 1

<<https://sfpublicworks.org/sites/default/files/Order208803.docx.pdf>> [as of July 7, 2025].

⁸ *Id.* at p. 2.

⁹ Dominguez, *Street vendor’s trial return to Mission Street marks hard-fought political win*, El Tecolote (June 23, 2024) <<https://eltecolote.org/content/en/mission-street-vendors-pilot/>> [as of July 7, 2025].

¹⁰ Echeverria, *Crime in S.F. dropped to a two-decade low in 2024. Here’s where it fell the most*, S.F. Chronicle (Jan. 8, 2025) <<https://www.sfchronicle.com/crime/article/san-francisco-2024-data-20020378.php>> [as of July 7, 2025]

¹¹ *Ibid.*

¹² *Ibid.*

¹³ Danielle Echeverria, *San Francisco Crime is going through an incredible and rare change*, S.F. Chronicle (April 9, 2025), available at: <https://www.sfchronicle.com/crime/article/sf-crime-decline-comparison-data-20257604.php>

First, it authorizes San Francisco to adopt an ordinance requiring a permit for the sale, on public property, including public streets or sidewalks, of merchandise that San Francisco has “determined is a common target of retail theft.” This does not apply to food items prepared on-site or prepackaged, such as a bag of chips or a nonalcoholic beverage, sold with a food item prepared on-site. The bill does not define or identify what merchandise may be considered “a common target of retail theft.” This gives San Francisco discretion to make this determination. Absent additional guidelines or restrictions, this could authorize criminal penalties on vendors for the un-permitted sale of a broad range of merchandise.

Second, it provides that in order to receive a permit from the applicable administering permitting agency (which must be separate from the San Francisco Police Department) an applicant must prove that they obtained the merchandise lawfully and not through theft or extortion. This shifts the burden of proof onto vendors to demonstrate that they lawfully possess their merchandise, which may not always be possible if the merchandise is gifted or purchased without a receipt. This is particularly true for vendors who, prior to this bill’s effective date, lawfully purchased or possessed merchandise but no longer have access to written records proving lawful ownership. Requiring proof of lawful possession may deter or otherwise prevent some vendors who lawfully possess their property from engaging in sidewalk vending, creating a barrier to an otherwise lawful economic opportunity.

Third, unlike the sidewalk vendor ordinances permitted under existing law, this bill authorizes the imposition of criminal penalties against a person who sells merchandise determined to be a common target of retail theft, without a permit. Under this bill, a written warning must be issued for a first time violation, a second and third violation within eighteen months of the time of the first violation are punishable as an infraction, while a subsequent violation after three prior violations, and that occur within eighteen months of the time of the first violation, are punishable either as an infraction or as misdemeanor punishable by up to six months in county jail, or by both that imprisonment and a fine. Notably, such criminal penalties apply even if the merchandise is not in fact stolen. The criminal conduct proposed by this bill is the selling of specified merchandise *without a permit*.

Such criminal penalties are in stark contrast to the Legislature’s approach to regulating sidewalk vending since 2018, which explicitly disavowed imposing criminal punishment for violations of sidewalk vending ordinances. (SB 946 (Lara), Ch. 459, Stats. 2018; see Gov. Code, § 51039, subd. (c).) In its findings and declarations, SB 946 stated “the safety and welfare of the general public is promoted by *prohibiting criminal penalties for violations of sidewalk vending ordinances and regulations*.” (SB 946, Ch. 459, Stats. 2018, italics added.) Instead, SB 946 permitted violations of an authorized sidewalk ordinance to be punished by a series of administrative fines that increase in scale as the number of violations increases, or by revocation of a sidewalk vending permit. (Gov. Code, § 51039, subds. (a) & (c).) Similarly, SB 972 (Gonzalez), Chapter 489, Statutes of 2022, which created the statutory framework for CMFOs, prohibited any violation of a CMFO requirement from being punished as an infraction or misdemeanor. (Health & Saf. Code, § 114368.8, subds. (a), (b).)

Given that the Legislature has repeatedly prohibited localities from imposing criminal penalties for sidewalk vending violations, and local authorities already have the authority to regulate sidewalk vending and issue administrative fines of up to \$1,000 for un-permitted vending, the need to give San Francisco the authority to prosecute sidewalk vendors for un-permitted vending of certain goods is unclear.

- 4) **Existing Penalties for Conduct Prohibited by this Bill:** There are numerous penalties that can already be used to address the type of retail theft and fencing at issue in this bill, many of which were specifically created by the Legislature last year to address concerns of rising retail theft. Further, Proposition 36, which was passed by the voters in November of 2024 established additional penalties for repeat theft violators, and made it easier to prosecute grand theft. Available tools that can be utilized to target the retail theft and fencing include the following:

a) Administrative Fines for Un-permitted Sidewalk Vending

Cities and counties already may regulate sidewalk vending, including requiring vendors to have a permit. A vendor who violates the provisions of such an ordinance can be punished by a series of fines including \$100 for a first violation, a \$200 fine for a second violation within one year of the first, and a \$500 fine for each additional violation within one year of the first. (Gov. Code, § 51039, subd. (a)(1).) Notably, higher fines are authorized for violations of vending without a permit where one is required, including \$250 for a first violation, \$500 for a second violation within one year of the first, or up to \$1,000 for each additional violation within one year of the first violation (Gov. Code, § 51039, subd. (a)(3).) Further, a local authority may rescind a permit issued to a sidewalk vendor upon the fourth violation or subsequent violations. (Gov. Code, § 51039, subd. (a)(2).)

The default fines for infractions and misdemeanors are \$250, and \$1,000 respectively. (Pen. Code, §§ 19 & 19.8, subd. (b).) Given that vending without a permit, where one is required, can already be punished by administrative fines ranging from \$250 to \$1,000, the need to authorize additional infraction and misdemeanor fines, and potential jail time, is unclear.

b) Receipt of Stolen Property

A person who buys or receives stolen merchandise, with knowledge it was stolen, and attempts to sell that property as a sidewalk vendor, can be prosecuted for receipt of stolen property. It is already crime to buy or receive stolen property, with knowledge that the property was stolen and with knowledge of the presence of the property. (Pen. Code, §§ 487, 489, 496; 1 CALCRIM 1750 (2025).) Receipt of stolen property is punishable as an alternate misdemeanor/felony, depending on the amount stolen. (Pen. Code, §§ 487, 489, 496.) A person convicted of receiving more than \$50,000 in stolen property is also subject sentencing enhancements. (See Pen. Code, § 12022.6.) As such, persons who are not directly involved in stealing merchandise, but nonetheless receive or purchase stolen merchandise for the purpose of selling such merchandise as a sidewalk vendor, can be prosecuted for receipt of stolen property.

c) Theft

A person who feloniously steals or takes away the personal property of another, or who knowingly and designedly, by any false or fraudulent representation or pretense, defrauds any other person of money, labor or real or personal property, is guilty of theft. If the value of the property is under \$950, it is petty theft punishable by imprisonment in county jail for one year. If the value of stolen property exceeds \$950, the offense can be charged as grand theft, punishable by imprisonment in a county jail for up to one year, or by imprisonment in

the county jail for 16 months, two years, or three years. (Pen. Code, §§ 487, 489, 496.) A person convicted of theft of more than \$50,000 is also subject sentencing enhancements. (See Pen. Code, § 12022.6.) Here, a person who steals merchandise and attempts to re-sell such merchandise as a sidewalk vendor can be prosecuted for theft or grand theft, depending on the amount stolen.

Notably, after the passage of Prop 36 in November of 2024, it is now easier for prosecutors to charge persons with a felony for theft. First, Prop 36 targeted repeat theft offenders by making a conviction for theft and shoplifting, where that person has two or more prior theft convictions, punishable by imprisonment in county jail for up to one year or by 16 months, or two or three years; and it made a second or subsequent conviction of petty theft with two or more priors punishable by imprisonment in the county jail not exceeding one year or by 16 months, or two or three years in state prison. (Pen. Code, § 666.1, subd. (a).) Here, a person with two or more priors who is caught stealing merchandise from San Francisco retail stores can face up to three years in county jail. (Pen. Code, § 666.1, subd. (a).)

Second, Prop 36 made it easier to aggregate the value of stolen property in order to trigger the \$950 grand theft threshold. Previously, the value of stolen property could be aggregated to charge grand theft where the acts were motivated by one intention, one impulse, and one plan. (Pen. Code, § 487, subd. (e).) However, Prop 36 authorized aggregation in multiple cases of theft into a single charge, with the sum of the value of all property or merchandise being the value considered in determining the degree of theft. (Pen. Code, § 490.3.) As such, pursuant to Prop 36's aggregation standard, prosecutors have greater leeway to aggregate theft associated with the type of fencing at issue in this bill, making it easier to charge such persons with grand theft.

d) Organized Retail Theft:

A person commits organized retail theft where they: 1) act in concert with one or more persons to steal merchandise with the intent to sell, exchange, or return the merchandise for value; 2) act in concert with two or more persons to receive, purchase, or possess merchandise knowing or believing it to have been stolen; 3) act as the agent of another individual or group of individuals to steal merchandise from one or more merchant as part of a plan to commit theft; or, 4) recruit, coordinate, organize, supervise, direct, manage, or finance another to undertake acts of theft. (Pen. Code, § 490.4, subd. (a).) Violations of the above provisions that are committed on two or more separate occasions within a one-year period, and where the aggregated value of the merchandise exceeds \$950, are in most cases punishable as either a misdemeanor punishable by up to one year county jail not exceeding one year or a felony punishable by up to three years in county jail.

Here, individuals who act in concert to engage in fencing can be prosecuted under the organized retail theft statute. Particularly, acting in concert to steal merchandise with intent to sell for value, or acting in concert to receive or possess stolen merchandise, irrespective, of whether the ultimate sale occurs, can already be punished under organized retail theft. More importantly, organizing, directing, and financing such fencing schemes is punishable by up to three years in county jail for first time violations under the organized retail theft statute.

e) Deprivation of a Retail Opportunity

Fencing can additionally be prosecuted under the specific statute of deprivation of a retail business opportunity. The statute provides that a person that unlawfully possesses property acquired through one or more acts of theft from a retail business, where the property is not possessed for personal use and the person has the intent to sell, exchange, or return the merchandise for value, or the intent to act in concert with one or more persons to sell, exchange, or return the merchandise for value, and value of the possessed property exceeds \$950, is guilty of unlawful deprivation of a retail business opportunity, punishable by up to one year in a county jail or by 16 months, two years, or three years in county jail. (Pen. Code, § 496.6.)

This statute is particularly applicable to the type of fencing schemes this bill is concerned with because it targets unlawful possession of property that is stolen from a retail business, where the property is not possessed for personal use, and the person has intent to sell such merchandise for value. Further, to be convicted of this crime a person does not actually need to sell such merchandise for value, but simply needs the intent to do so.

Given the significant effort the Legislature has made in recent years to provide prosecutor's with more tools to prosecute theft offenses, and impose greater punishments for such offenses, and considering San Francisco's historically low crime levels, the need to create new criminal penalties on sidewalk vendors for the un-permitted sale of certain merchandise is unclear.

- 5) **Urgency Clause:** This bill is an urgency measure, requiring a two-thirds vote of each house of the Legislature. The facts constituting the need for the urgency are set forth in the bill as follows: "The City and County of San Francisco is experiencing rampant retail theft and the reselling of stolen goods on their streets, which leads to chaos and violence. In order to address this serious issue at the earliest time possible, it is necessary for this act to take effect immediately." In fact, as previously referenced, the 2024 crime rates in San Francisco dropped to their lowest point in two-decades.¹⁴ Specific to property crime, San Francisco's reduction in property crime from 2024-2025 was the largest of any comparably sized city.¹⁵
- 6) **Argument in Support:** According to the *San Francisco Bay Area Rapid Transit District (BART)*, "This bill seeks to combat fencing, or the sale of stolen goods, by authorizing the City and County of San Francisco to adopt an ordinance requiring vendors to obtain a permit to sell common retail theft items.

"In San Francisco, the illegal vending of stolen goods has become a public safety concern for community members, brick-and-mortar businesses, and permitted street vendors. Working closely with our city partners, BART has assisted with the response to this crisis, by erecting temporary fencing at the 16th and 24th Street Mission station plazas, providing increased presence and outreach by BART Police personnel, and conducting more frequent station cleaning.

¹⁴ Danielle Echeverria, *Crime in S.F. dropped to a two-decade low in 2024. Here's where it fell the most*, S.F. Chronicle (Jan. 8, 2025), available at: <https://www.sfchronicle.com/crime/article/san-francisco-2024-data-20020378.php>

¹⁵ Danielle Echeverria, *San Francisco Crime is going through an incredible and rare change*, S.F. Chronicle (April 9, 2025), available at: <https://www.sfchronicle.com/crime/article/sf-crime-decline-comparison-data-20257604.php>

“Under current law (Penal Code Section 602.7), BART Police can cite a person who is selling or peddling goods or services on BART property, including our station plazas, or on our trains without authorization. However, existing law does not allow for the criminal citation of unauthorized vending on the public sidewalks leading to our stations. SB 276 offers a tool for our law enforcement partners at the City of San Francisco to address dangerous situations associated with the fencing of stolen goods on public sidewalks outside BART property.”

- 7) **Argument in Opposition:** According to the *San Francisco Public Defender’s Office*, “The bill allows for the imposition of criminal penalties for selling merchandise without a permit. Such punitive measures disproportionately impact vulnerable communities, including low-income individuals and immigrants, who rely on street vending as a primary source of income. These penalties could lead to significant hardship and exacerbate existing inequalities. Misdemeanor convictions can have long-lasting consequences, impacting employment, housing, and family instability. This will result in putting vulnerable individuals into even more precarious circumstances, increasing the likelihood of recidivism and incarceration as a revolving door.”
- 8) **Related Legislation:** SB 635 (Durazo) would prohibit an agency or department of a local authority that regulates street vendors or compact mobile food operation, or enforces sidewalk vending regulations, from collecting citizenship or criminal background data. SB 635 will be heard in this committee today.
- 9) **Prior Legislation:**
 - a) SB 925 (Wiener), of the 2023-2024 Legislative Session, was substantially similar to this bill. SB 925 was held in suspense in Assembly Appropriations Committee.
 - b) AB 2791 (Wilson), of the 2023-2024 Legislative Session, would have allowed local authorities to prohibit sidewalk vendors from operating within 250 feet of both the entrance and exit of a fair and the associated parking lot of that fair during the hours the fair is operating. AB 2791 did not receive a hearing in the Senate Committee on Local Government.
 - c) SB 972 (Gonzalez), Chapter 489, Statutes of 2022, establishes a regulatory framework for compact mobile food operations (CMFOs).
 - d) SB 1290 (Allen), of the 2021-2022 Legislative Session, would have required, by January 1, 2025, the Governor’s Office of Business and Economic Development, in consultation with others, to submit a specified report to the Legislature on local sidewalk vending in California. SB 1290 was held in suspense in the Assembly Appropriations Committee.
 - e) SB 946 (Lara), Chapter 459, Statutes of 2018, establishes requirements for local regulation of sidewalk vendors.

REGISTERED SUPPORT / OPPOSITION:

Support

Bay Area Council
California Retailers Association
Clecha
Mayor Daniel Lurie, City and County of San Francisco
Mission Merchant's Association
Mission Street Vendors Association
Mnc Inspiring Success
San Francisco Bay Area Rapid Transit District (BART)
University of California, College of the Law, San Francisco
48 private individuals

Oppose

ACLU California Action
All of US or None (HQ)
California Alliance for Youth and Community Justice
Courage California
Legal Services for Prisoners With Children
San Francisco Public Defender
San Francisco Public Defender's Office
The W. Haywood Burns Institute
Viet Voices

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