



TO: Mayor and City Council
FROM: Eric Ghisletta, Interim Chief of Police
SUBJECT: AB 718 (Chu), Removal of Regulatory Authority: Vehicles Used for Human Habitation
DATE: May 25, 2015

Recommendation

Motion authorizing the Mayor to sign a letter of opposition against AB 718 (Chu), Removal of Regulatory Authority: Vehicles Used for Human Habitation.

Background

Existing law authorizes the legislative body of a city or county to pass ordinances not in conflict with state or federal law and the state or federal constitution.

AB 718 would prohibit the legislative body of a city, county, or city and county from prohibiting or otherwise subjecting to civil or criminal penalties, or removing or impounding a motor vehicle by reason of, the act of sleeping or resting in a lawfully parked motor vehicle. The bill would also find and declare that the provisions of the bill address the health and safety of homeless individuals, a matter of statewide concern, and that therefore, they apply to charter cities, charter county, and charter cities and counties.

Fiscal Impact:

No fiscal impact.

Attachments

- Actual Bill AB 718
- Bill Summary, Status and History
- Opposition letter

APPROVED BY:

A handwritten signature in blue ink, appearing to read "Rob Braulik".

Rob Braulik, City Manager

AMENDED IN ASSEMBLY MAY 18, 2015
AMENDED IN ASSEMBLY APRIL 21, 2015
AMENDED IN ASSEMBLY MARCH 26, 2015
CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 718

Introduced by Assembly Member Chu
(Coauthor: Assembly Member Gonzalez)

February 25, 2015

An act to add Section 50034 to the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 718, as amended, Chu. Local government: powers.

Existing law authorizes the legislative body of a city or county to pass ordinances not in conflict with state or federal law and the state or federal constitution.

This bill would prohibit the legislative body of a city, county, or city and county from ~~prohibiting~~, *prohibiting* or otherwise subjecting to civil or criminal penalties, *or removing or impounding a motor vehicle by reason of*, the act of sleeping or resting in a lawfully parked motor vehicle. *The bill would also find and declare that the provisions of the bill address the health and safety of homeless individuals, a matter of statewide concern, and that therefore, they apply to charter cities, charter counties, and charter cities and counties.*

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. The Legislature finds and declares that the*
2 *provisions of this measure address the health and safety of*
3 *homeless individuals, a matter of statewide concern, and that*
4 *therefore, they apply to charter cities, charter counties, and charter*
5 *cities and counties.*

6 ~~SECTION 1.~~

7 *SEC. 2.* Section 50034 is added to the Government Code, to
8 read:

9 50034. The legislative body of a city, county, or city and county
10 shall not ~~prohibit~~, *prohibit* or otherwise subject to civil or criminal
11 penalties, *or remove and impound a motor vehicle by reason of,*
12 the act of sleeping or resting in a lawfully parked motor vehicle.

ASSEMBLY THIRD READING

AB 718 (Chu)

As Amended May 18, 2015

Majority vote

Committee	Votes	Ayes	Noes
Transportation	12-1	Frazier, Bloom, Chu, Dodd, Eduardo Garcia, Gomez, Kim, Linder, Medina, Melendez, Nazarian, Santiago	Baker
Local Government	7-1	Maienschein, Gonzalez, Chiu, Cooley, Gordon, Holden, Linder	Waldron

SUMMARY: Prohibits cities and counties, including charter cities and counties, from prohibiting, otherwise subjecting to civil or criminal penalties, or impounding a vehicle by reason of the act of sleeping or resting in a lawfully parked motor vehicle.

EXISTING LAW:

- 1) Provides, under the California Constitution, that a city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws.
- 2) Authorizes a legislative body to pass ordinances not in conflict with the California Constitution and laws of the state or the United States.
- 3) Prohibits local governments from regulating the movement or parking of vehicles unless specifically authorized by state law. With respect to parking, under current law local governments may, by ordinance or resolution, do the following:
 - a) Prohibit or restrict the stopping, standing, or parking of vehicles on a local road or on a state highway in their jurisdiction with the approval of the Department of Transportation.
 - b) Prohibit or restrict the stopping, standing, or parking of vehicles that are six feet or more in height within 100 feet of any intersection, street, or highway during all or certain hours of the day.
 - c) Designate certain streets for the exclusive parking privileges of residents and merchants adjacent to the streets for their use or the use of their guests and issue parking permits that exempt them from the restriction or prohibition of the ordinance or resolution.
 - d) Authorize preferential parking permits for members of organizations, professions, or other designated groups, including but not limited to, school personnel, to park on specified streets if the local authority determines that the use of the permits will not adversely affect parking conditions for residents and merchants in the area.
- 4) Makes it an infraction to violate any provision of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code.

FISCAL EFFECT: None

COMMENTS: This bill restricts local governments from prohibiting, otherwise subjecting to civil or criminal penalties, or removing or impounding a vehicle by reason of the act of sleeping or resting in a lawfully parked vehicle. According to the author and sponsor, this bill is a response to an increasing number of local jurisdictions that have enacted ordinances that punish people for sleeping in a vehicle. They are concerned that these ordinances are thinly veiled attempts to criminalize homelessness that do not serve any legitimate public purpose.

According to the sponsor, Housing California, "For many women and children experiencing homelessness, sleeping or living in a vehicle affords them a sense of safety that they cannot fully experience sleeping outdoors. In the absence of adequate shelter beds across the state, a car is the most practical solution for many women and children. Many people who reside in their vehicles have some form of part-time employment that enables them to meet basic needs. A vehicle is not simple shelter for them, but the transit source that connects them to their only source of income. Likewise, a vehicle can also represent the difference between whether a homeless child gets to school or a disabled individual keeps in touch with a medical provider."

Cities and counties have broad authority to regulate parking within their communities. They can, among other things, establish time limits, install meters, prohibit parking entirely or at certain times of day on a particular street, and provide preferential parking privileges in certain areas to residents only. If a vehicle is parked in accordance with whatever regulations a local government has applied to that particular parking space, it is not clear what purpose is served by additionally regulating what is happening inside the vehicle, so long as the activity is otherwise legal. Sleeping is not inherently more objectionable than eating, reading, listening to music, talking on the phone, or any other number of activities that someone might undertake in a parked car. While some cities have attempted to justify these bans on public safety grounds, it is hard to imagine how a sleeping person poses a threat to public safety.

These types of ordinances not only appear to unfairly target the homeless, but they can also pose a threat to public safety. If a driver is fatigued, it is in the interest of public safety that he or she park and rest rather than continuing to drive. In cities that ban sleeping in cars, this would be prohibited.

Analysis Prepared by: Anya Lawler / TRANS. / (916) 319-2093

FN: 0000446



City of Martinez

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June 3, 2015

The Honorable Kansen Chu
California State Assembly
State Capitol, Room 2179
Sacramento, CA 95814
Via FAX: (916) 319-2125

AB 718 (Chu) – Removal of Regulatory Authority: Vehicles Used For Human Habitation **Notice of Opposition**

Dear Assembly Member Chu,

On behalf of the City of Martinez, I write to inform you of our opposition to AB 718, which would prohibit local agencies from enforcing laws and ordinances regarding the act of people sleeping or resting in a lawfully parked motor vehicle.

While a vehicle may be “lawfully parked” in a residential neighborhood or in the parking lot of a business, it does not mean that it is acceptable to have people live there. The issues raised by AB 718 are less about parking, and more about the use of vehicles for human habitation, including sleeping and “resting” in front of existing homes and businesses.

City parking locations whether on public or private property—other than campgrounds—were never intended or designed for residential occupancy. Such uses raise major issues of sanitation and impact the ability of residents to feel secure in their homes and the conduct of business activity.

This measure should be rejected. Cities work hard to balance all of the needs of their communities. It is simply not appropriate for the Legislature to attempt to remove local government authority to protect the public health, safety and welfare of their residents from issues that arise when people live outside of campgrounds in cars and trucks parked on public and private property. These are not easy issues to deal with, but they cannot responsibly be ignored.

What is most needed to combat homelessness is funding for affordable housing and emergency shelters. There are several major pending measures that can help restore funds for affordable housing; we encourage legislators to support additional funding for affordable housing and homeless solutions.

Because this measure would undermine local authority to protect the public health, safety and welfare of our residents, we must oppose AB 718.

Sincerely,

Rob Schroder, Mayor
City of Martinez

cc: Assembly Member Susan Bonilla
Senator Lois Wolk
William Weber, Principal Consultant, Assembly Republican Caucus Fax: (916) 319-3902
Misa Lennox, Consultant, Assembly Local Government Committee Fax: (916) 319-3959
Samantha Caygill, League Regional Public Affairs Manager
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