

Date of Hearing: April 27, 2015

ASSEMBLY COMMITTEE ON TRANSPORTATION

Jim Frazier, Chair

AB 718 (Chu) – As Amended April 21, 2015

SUBJECT: Local government: powers

SUMMARY: Prohibits a city, county, or city and county from prohibiting or otherwise subjecting to civil or criminal penalties 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 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: AB 718 restricts local governments from prohibiting or otherwise subjecting to civil or criminal penalties the act of sleeping or resting in a lawfully parked vehicle. According to the author and sponsor, AB 718 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.

Double referral: This bill will be referred to the Local Government Committee should it pass out of this committee.

REGISTERED SUPPORT / OPPOSITION:

Support

Housing California (Sponsor)
Western Regional Advocacy Project

Opposition

None on file

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