

Assembly Bill No. 2981

Passed the Assembly August 28, 2002

Chief Clerk of the Assembly

Passed the Senate August 27, 2002

Secretary of the Senate

This bill was received by the Governor this _____ day of
_____, 2002, at _____ o'clock __M.

Private Secretary of the Governor



CHAPTER _____

An act to amend Sections 6741, 19213, 19215, 24713, 25023, 25703, 27573, 27644, and 43100 of the Food and Agricultural Code, and to amend Section 110485 of the Health and Safety Code, relating to agriculture.

LEGISLATIVE COUNSEL'S DIGEST

AB 2981, Committee on Agriculture. Agriculture.

(1) Existing law generally provides that it is a misdemeanor for any person to sell any nursery stock unless the person holds a valid license issued upon payment of the prescribed license fee. Existing law also provides that a person is not required to pay any license fee if the person's sales of plants amount to less than \$500 within any one fiscal year, the person has reported to the county agricultural commissioner his or her intention to make those sales, and all plants sold by the person are of his or her own production, and are sold for planting within the county in which the plants were grown.

This bill would enlarge the exemption from payment of license fees described above by including all persons who otherwise meet the criteria for exemption but whose sales of plants amount to less than \$1,000 within any one fiscal year.

(2) Existing law defines "rendering" and "transporter of inedible kitchen grease" for the purpose of regulating these activities.

This bill would expand these definitions to include other similar activities and make other clarifying changes. By expanding the scope of persons to whom existing crimes are applicable, this bill would impose a state-mandated local program.

(3) Existing law sets forth specified provisions relating to plant sanitation, poultry meat inspection for wholesomeness, and poultry classification, any violation of which is a misdemeanor. Existing law also provides an exemption from these provisions to a poultry plant where poultry which was produced on the premises is slaughtered, or to the poultry meat itself, if the poultry meat derived from the poultry is sold by the producer on or off the premises where it was produced to retail stores or public eating houses.



This bill would delete these exemptions. By expanding the scope of persons to whom existing crimes are applicable, this bill would impose a state-mandated local program.

(4) Existing law requires the Secretary of Food and Agriculture to appoint a Shell Egg Advisory Committee that is authorized to advise the secretary with respect to various issues related to eggs.

This bill would allow the committee to advise the secretary with respect to components of the Egg Quality Assurance Plan, a voluntary food safety program developed by the egg industry in cooperation with various public agencies that are consistent with and promote the purposes of California law regarding eggs and egg products.

(5) Existing law makes it unlawful for an egg handler to sell, offer for sale, or expose for sale eggs that are packed or graded for human consumption unless certain requirements are met, including that the consumer container is labeled with a warning to keep the eggs refrigerated. An existing federal regulation, effective September 4, 2001, requires that, except as specified, the label of a package of eggs bear the statement “SAFE HANDLING INSTRUCTIONS: To prevent illness from bacteria: keep eggs refrigerated, cook eggs until yolks are firm, and cook foods containing eggs thoroughly.”

This bill would provide that a consumer egg container is adequately marked with a warning to keep the eggs refrigerated if its labeling complies with the safe-handling instructions required by the aforementioned federal regulation.

(6) Existing law provides that a California-grown seal shall be used in the labeling or advertising of agricultural products, as specified, and authorizes the creation, for marketing, advertising, or promotional purposes, of a California-grown seal for agricultural products only under the direction of the Secretary of Food and Agriculture and only to identify agricultural products that have been produced in the state. Existing law authorizes the secretary, upon petition of a grower or processor of California agricultural products, to adopt rules and regulations to provide methods of identifying and labeling agricultural products with the California-grown seal to prevent any misleading use of the seal. Existing law also provides that fraudulent use of the term “California-grown seal” or of the identifying label of the California-grown seal, or a deliberately misleading or



unwarranted use of the term or identifying mark, is a misdemeanor, punishable as specified.

This bill would instead provide that the terms “California grown,” “California-grown,” and similar terms with identical connotations shall be used in the labeling or advertising of agricultural products, and authorizes the use of those terms for marketing, advertising, or promotional purposes, only to identify food or agricultural products that have been produced in the state or harvested in its surface or coastal waters. This bill would authorize the secretary to adopt guidelines, rules, and regulations to further define acceptable uses of those terms and to prevent any misleading use of those terms. This bill would also provide that fraudulent use of those terms, or of any seals or other identities officially adopted by the Department of Food and Agriculture in connection with those terms, or a deliberately misleading or unwarranted use of those items or terms is a misdemeanor, punishable as specified. By changing the definition of a crime, this bill would impose a state-mandated local program.

(7) Existing law provides, with specified exceptions, that every person who is engaged in the manufacture, packing, or holding of processed food in this state shall pay a food safety fee of \$100 to the State Department of Health Services to be deposited in the Food Safety Fund, a special fund, and upon appropriation by the Legislature, to be used by the department to assist in developing and implementing education and training programs related to food safety. Existing law provides that this provision shall remain in effect only until January 1, 2003, and as of that date is repealed.

This bill would provide that the food safety fee provision shall instead remain in effect until January 1, 2006, at which time it would be repealed.

(8) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.



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

SECTION 1. Section 6741 of the Food and Agricultural Code is amended to read:

6741. A person is not required to pay any license fee if all of the following facts exist:

(a) The person's sales of plants amount to less than one thousand dollars (\$1,000) within any one fiscal year.

(b) The person has reported to the commissioner his or her intention to make those sales.

(c) All plants which are sold by the person are of his or her own production, and are sold for planting within the county in which the plants were grown.

SEC. 2. Section 19213 of the Food and Agricultural Code is amended to read:

19213. "Rendering" means all recycling, processing, and conversion of animal and fish materials and carcasses and inedible kitchen grease into fats, oils, proteins, and other products that are used in the animal, poultry, and pet food industries and other industries.

SEC. 3. Section 19215 of the Food and Agricultural Code is amended to read:

19215. "Transporter of inedible kitchen grease" means any person who transports inedible kitchen grease.

SEC. 4. Section 24713 of the Food and Agricultural Code is amended to read:

24713. (a) This chapter does not apply to a poultry plant where poultry which was produced on the premises is slaughtered if the poultry meat which is derived from the poultry is sold by the producer in any of the following ways:

(1) At retail upon the premises.

(2) At retail off of the premises, either direct to consumers at their homes or at a retail stand which is operated by the producer in a farmers' market.

(b) As used in this section, "producer" includes only an individual producer who does not employ, except in unforeseeable exigencies, any person except members of his or her immediate family.

SEC. 5. Section 25023 of the Food and Agricultural Code is amended to read:



25023. (a) This chapter does not apply to poultry meat which is derived from poultry which is produced upon the premises where it is slaughtered if the poultry meat is sold by the producer in any of the following ways:

(1) At retail on the premises.

(2) At retail by the producer of the poultry meat off of the premises, either direct to consumers at their homes or at a retail stand which is operated by the producer in a farmers' market.

(b) As used in this section, "producer" includes only an individual producer who does not employ, except in unforeseeable exigencies, any person except members of his or her immediate family.

SEC. 6. Section 25703 of the Food and Agricultural Code is amended to read:

25703. (a) This part does not apply to poultry meat which is derived from poultry which is produced upon the premises where it is slaughtered if the poultry meat is sold by the producer in any of the following ways:

(1) At retail upon the premises.

(2) At retail off of the premises, either direct to consumers at their homes or at a retail stand which is operated by the producer in a farmers' market.

(b) As used in this section, "producer" includes only an individual producer who does not employ, except in unforeseeable exigencies, any person except members of his or her immediate family.

SEC. 7. Section 27573 of the Food and Agricultural Code is amended to read:

27573. The committee shall be advisory to the Secretary of Food and Agriculture on all matters pertaining to standards for shell eggs. The committee may advise on:

(a) Quality of shell eggs.

(b) Recommendations concerning sampling.

(c) Uniformity of inspection.

(d) Adjustment of fees for proper administration and enforcement.

(e) Annual budget for the administration and enforcement of this chapter and all matters pertaining to this chapter or regulations adopted pursuant thereto.



(f) Components of the Egg Quality Assurance Plan, a voluntary food safety program, that are consistent with and promote the purposes of this chapter.

SEC. 8. Section 27644 of the Food and Agricultural Code is amended to read:

27644. (a) It is unlawful for an egg handler, as defined in Section 27510, to sell, offer for sale, or expose for sale eggs that are packed or graded for human consumption unless at least one of the following conditions is met:

(1) The consumer container is plainly, legibly, and conspicuously labeled “KEEP REFRIGERATED” or with words of similar meaning. Consumer container labeling that complies with the safe-handling instructions required by Section 101.17 of Title 21 of the Code of Federal Regulations shall be deemed to comply with this paragraph.

(2) A conspicuous sign is posted at the point of sale for eggs on bulk display advising consumers that the eggs are to be refrigerated as soon as practical after purchase.

(b) Except as provided in subdivision (c), it is unlawful for an egg handler to sell, offer for sale, or expose for sale eggs that are packed for human consumption unless each container intended for sale to the ultimate consumer is labeled on one outside top, side, or end with all of the following:

(1) (A) The words “Sell-by” immediately followed by the month and day in bold type, for example “June 30” or “6-30.” Common abbreviations of months shall be permitted.

(B) The sell-by date shall not exceed 30 days from the date on which the eggs were packed, excluding the date of packing.

(C) If the eggs are repacked but not regraded, the original sell-by date shall apply.

(2) A Julian pack date. As used in this paragraph, the Julian pack date is the consecutive day of the year on which the eggs were packed.

(3) The identification number of the plant of origin.

(c) This section does not apply to eggs that are packaged for export. Paragraph (1) of subdivision (b) does not apply to eggs that are packaged for interstate commerce or eggs that are packaged for military sales.

(d) All eggs returned from grocery stores, store warehouses, and institutions shall not be reprocessed for retail shell egg sales.



(e) (1) For the purposes of paragraph (3) of subdivision (b), the department, in consultation with the Shell Egg Advisory Committee, shall establish a plant identification numbering system and assign identification numbers to all egg handling facilities.

(2) For the purposes of complying with paragraph (3) of subdivision (b), an egg handling facility that is inspected by the United States Department of Agriculture, and to which a federal plant identification number has been assigned, may use the federal identification number, the identification number assigned by the department, or both.

SEC. 9. Section 43100 of the Food and Agricultural Code is amended to read:

43100. (a) The terms “California grown,” “California-grown,” and similar terms with identical connotations shall be used in the labeling or advertising of agricultural products as follows:

(1) The terms “California grown,” “California-grown,” and similar terms with identical connotations may be used for marketing, advertising, or promotional purposes, only to identify food or agricultural products that have been produced in the state or harvested in its surface or coastal waters.

(2) The Secretary of Food and Agriculture may adopt guidelines, rules, and regulations to further define acceptable uses of the terms “California grown,” “California-grown,” and similar terms with identical connotations, and to prevent any misleading use of the terms.

(b) A fraudulent use of the term “California grown” or “California-grown,” or of any seals or other identities officially adopted by the Department of Food and Agriculture in connection with these terms, or a deliberately misleading or unwarranted use of these items or terms, is a misdemeanor punishable by a fine of not less than one hundred dollars (\$100) or more than three thousand dollars (\$3,000), or by imprisonment in the county jail for not more than six months, or by both the fine and imprisonment.

SEC. 10. Section 110485 of the Health and Safety Code is amended to read:

110485. (a) Every person who is engaged in the manufacture, packing, or holding of processed food in this state shall pay a food



safety fee of one hundred dollars (\$100) to the department in addition to any fees paid pursuant to Section 110470.

(b) Revenue received pursuant to this section shall be deposited in the Food Safety Fund created pursuant to Section 110050. A penalty of 10 percent per month shall be added to any food safety fee not paid when due.

(c) Upon appropriation, the food safety fees deposited in the Food Safety Fund shall be used by the department to assist in developing and implementing education and training programs related to food safety. These programs shall be developed in consultation with representatives of the food processing industry. Implementation shall include education and training in the prevention of microbial contamination.

(d) This section does not apply to companies exclusively involved in flour milling, dried bean processing, or in the drying or milling of rice, or to those individual registrants the director determines should not be assessed because substantial economic hardship would result to those registrants. For the purposes of this subdivision, the substantial hardship exemption shall be extended only to registrants whose wholesale gross annual income from the registered business is twenty thousand dollars (\$20,000) or less.

(e) This section shall remain in effect only until January 1, 2006, and as of that date is repealed, unless a later enacted statute, that is enacted on or before January 1, 2006, deletes or extends that date.

SEC. 11. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.



Approved _____, 2002

Governor

