

Assembly Concurrent Resolution

No. 117

Introduced by Assembly Member Laird

March 13, 2008

Assembly Concurrent Resolution No. 117—Relative to the light brown apple moth.

LEGISLATIVE COUNSEL'S DIGEST

ACR 117, as introduced, Laird. Light brown apple moth.

This measure would memorialize the Department of Food and Agriculture, the Department of Pesticide Regulation, the Office of Environmental Health Hazard Assessment, and any other applicable state departments and agencies involved in the light brown apple moth eradication effort of the need to address the unresolved health, scientific, and efficacy issues concerning the 2007 light brown apple moth eradication effort, and would request those departments and agencies to respond to existing concerns by providing the public with independent analysis of specified impacts on public health and the environment, to provide information on how they intend to respond to the citizen health complaints arising from their 2007 light brown apple moth eradication activities, and to provide the public with independent analysis to ensure that the elements of the Department of Food and Agriculture's 2008 Action Plan to eradicate the light brown apple moth are not harmful to human health and the environment and with the properties of the new pheromone-based pesticide to be aeriually sprayed. The measure would request the Department of Food and Agriculture, the Office of Environmental Health Hazard Assessment, and any other applicable state departments and agencies involved in the light brown apple moth eradication effort to publish a formalized plan on health effect

monitoring and tracking. The measure would also request the Department of Food and Agriculture to explain whether it intends to adopt certain recommendations relating to air testing for health effects.

Fiscal committee: yes.

1 WHEREAS, In February 2007, the Department of Food and
2 Agriculture (department) and the United States Department of
3 Agriculture confirmed the first recorded North American detection
4 of the light brown apple moth (LBAM) in Berkeley. Large
5 infestations of the LBAM have since been detected throughout the
6 San Francisco Bay and the Monterey Bay areas; and

7 WHEREAS, According to the department, the LBAM is a threat
8 to over 2,000 species of native and ornamental plants, fruits, and
9 vegetables, as well as several species of trees; and

10 WHEREAS, To eradicate the LBAM, the department began
11 hand placing pheromone-treated twist ties in the summer of 2007
12 in areas with small infestations and determined that the larger
13 infested areas could only be treated by aerial application of a
14 microencapsulated pheromone-based pesticide product called
15 CheckMate; and

16 WHEREAS, The department concluded that, as a declared
17 emergency, its aerial spraying and ground-based operations could
18 be undertaken without an environmental review; and

19 WHEREAS, During September 2007, the department aerially
20 sprayed a pheromone-based pesticide over portions of Monterey
21 County. During October and November, the department carried
22 out additional aerial applications over expanded areas in Monterey
23 and Santa Cruz Counties; and

24 WHEREAS, Before each aerial application, the department
25 received requests from state, county, and local officials and
26 hundreds of residents to delay spraying until critical health and
27 environmental questions were addressed; and

28 WHEREAS, Immediately following the aerial application of a
29 pheromone-based pesticide, numerous residents reported to state
30 and local elected officials, public health officers, and the
31 department adverse health effects, including, but not limited to,
32 irritated throats, shortness of breath, headaches, and nausea; and

33 WHEREAS, In October 2007, the Department of Pesticide
34 Regulation and the Office of Environmental Health Hazard
35 Assessment (agencies) issued a Consensus Statement “to provide

1 information on the toxicity of microencapsulated pheromones and
2 the potential for exposure, and to provide recommendations”; and

3 WHEREAS, The agencies acknowledged that the Consensus
4 Statement was not “a detailed human-health risk assessment [or]
5 an epidemiological study of exposed individuals” and that they
6 could not “provide a definitive cause for” the symptoms reported
7 by many residents; and

8 WHEREAS, The Consensus Statement concluded, “. . .the
9 toxicity data on the pheromone active ingredients, as well as on
10 microencapsulated pheromone product formulations, suggest that
11 exposure to a high dose of airborne CheckMate microcapsule
12 particles could cause eye, skin or respiratory irritation. The
13 application rates were extremely low, and it is likely that exposure
14 occurred at levels below those that would be expected to result in
15 health effects”; and

16 WHEREAS, As recommended by the agencies to the
17 department, the 2008 LBAM Action Plan notes, “OEHHA [Office
18 of Environmental Health Hazard Assessment] will work with local
19 health officers to ensure physicians and other health care providers”
20 are informed about reporting requirements and are trained on
21 pesticide poisoning recognition and management. Further,
22 “OEHHA will team with other public health organizations to
23 develop and oversee a program for the reporting, tracking and
24 scientific evaluation of reported illness incidents”; and

25 WHEREAS, The Consensus Statement included a
26 recommendation that the state consider air sampling to evaluate
27 “overall ambient air particulate load” as well as a “formalized
28 study and tracking program that looks at several factors including,
29 but not limited to, both long- and short-term health outcomes,
30 exposed and unexposed persons”; and

31 WHEREAS, In December 2007, state and local government
32 officials were presented with over 600 complaints, logged by
33 concerned individuals and citizen groups, claiming negative health
34 effects believed to be the result of the spraying. The department,
35 in its report to the Legislature, acknowledges 330 health
36 complaints; and

37 WHEREAS, The 2008 LBAM Action Plan, released by the
38 department in February 2008, states that eradication will require
39 multiple tools, and the “primary tool for eradication will be the
40 aerial application of pheromone for mating disruption.” In 2008,

1 the department intends to integrate several new tools, including
2 new pheromone carrier methods for aerial applications that would
3 last longer; ground treatments, including a ground-level bacteria
4 application; releasing stingless trichogramma wasps; applying
5 moth attractant insecticide; and expanded use of pheromone-treated
6 twist ties; and

7 WHEREAS, After carrying out two rounds of aerial application
8 of a pheromone-based pesticide in the Monterey Bay area, the
9 department is conducting studies in New Zealand of several carrier
10 methods, including microcapsules, paste-like droplets, and flakes.
11 According to the department's 2008 Light Brown Apple Moth
12 Program Questions and Answers sheet, the products are being
13 evaluated for "efficacy, longevity and ease of application." The
14 department intends to have results of its evaluations by April 2008
15 with the goal of aerial applications resuming over the Monterey
16 Bay area in June and the San Francisco Bay area in August; and

17 WHEREAS, One year has passed since the LBAM was first
18 detected in California and nearly six months have passed since the
19 first round of aerial application of a pheromone-based pesticide,
20 and questions raised by the public, as well as state and local
21 officials, still remain inadequately addressed; now, therefore, be
22 it

23 *Resolved by the Assembly of the State of California, the Senate*
24 *thereof concurring*, That it is the responsibility of the government
25 to demonstrate its actions regarding the light brown apple moth
26 are necessary, appropriate, and do not compromise human health
27 or the environment. It is not the responsibility of citizens to
28 demonstrate the reverse; and be it further

29 *Resolved*, That the Department of Food and Agriculture, the
30 Department of Pesticide Regulation, the Office of Environmental
31 Health Hazard Assessment, and any other applicable state
32 departments and agencies involved in the light brown apple moth
33 eradication effort need to address the unresolved health, scientific,
34 and efficacy issues concerning the 2007 light brown apple moth
35 eradication effort; and be it further

36 *Resolved*, That the Department of Food and Agriculture, the
37 Department of Pesticide Regulation, the Office of Environmental
38 Health Hazard Assessment, and any other applicable state
39 departments and agencies involved in the light brown apple moth
40 eradication effort are requested to respond to existing concerns by

1 providing the public with independent analysis of the following
2 impacts on public health and the environment: what are the likely
3 impacts on healthy adults and children; what are the likely impacts
4 on those with compromised health systems; what are the likely
5 impacts on those with asthma; what are the likely impacts to those
6 who breathe in microcapsules; what are the likely impacts of aerial
7 spraying on air quality and particulate load; and what is the efficacy
8 of aerial spraying of pheromone-based pesticides in eradicating a
9 pest; and be it further

10 *Resolved*, That the Department of Food and Agriculture, the
11 Office of Environmental Health Hazard Assessment, and any other
12 applicable state departments and agencies involved in the light
13 brown apple moth eradication effort are requested to publish a
14 formalized plan on health effect monitoring and tracking, including
15 how the Department of Food and Agriculture and the Office of
16 Environmental Health Hazard Assessment will ensure the reporting
17 mechanism is “credible and trusted,” as recommended by the
18 Department of Pesticide Regulation and the Office of
19 Environmental Health Hazard Assessment in the aforementioned
20 Consensus Statement; and be it further

21 *Resolved*, That the Department of Food and Agriculture is
22 requested to explain whether it intends to adopt the Consensus
23 Statement recommendations to undertake air sampling on
24 particulate load, as well as long- and short-term health outcomes;
25 and be it further

26 *Resolved*, That the Department of Food and Agriculture, the
27 Department of Pesticide Regulation, the Office of Environmental
28 Health Hazard Assessment, and any other applicable state
29 departments and agencies involved in the light brown apple moth
30 eradication effort are requested to provide information on how
31 they intend to respond to the approximately 600 citizen health
32 complaints arising from their 2007 light brown apple moth
33 eradication activities; and be it further

34 *Resolved*, That the Department of Food and Agriculture, the
35 Department of Pesticide Regulation, the Office of Environmental
36 Health Hazard Assessment, and any other applicable state
37 departments and agencies involved in the light brown apple moth
38 eradication effort are requested to provide the public with
39 independent analysis to ensure that the elements of the Department
40 of Food and Agriculture’s 2008 Action Plan are not harmful to

1 human health and the environment, and with the properties of the
2 new pheromone-based pesticide to be aurally sprayed, including
3 the inert ingredients; and be it further
4 *Resolved*, That the Chief Clerk of the Assembly transmit copies
5 of this resolution to the Department of Food and Agriculture, the
6 Department of Pesticide Regulation, the Office of Environmental
7 Health Hazard Assessment, and the author for appropriate
8 distribution.

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