

AMENDED IN SENATE JUNE 30, 2008

AMENDED IN ASSEMBLY APRIL 30, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 977

Introduced by Assembly Member Ma

February 22, 2007

An act relating to agriculture. An act to repeal Section 11501.1 of the Food and Agricultural Code, relating to pest control, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 977, as amended, Ma. ~~Agriculture. Pest control: pesticides: local regulation.~~

Existing law provides that the provisions of the Food and Agricultural Code that relate to pest control operations and agricultural chemicals, livestock remedies, and commercial feeds are of statewide concern and occupy the whole field of regulation regarding the registration, sale, transportation, or use of pesticides to the exclusion of all local regulation. Existing law provides that no ordinance or regulation of local government, as specified, may prohibit or in any way attempt to regulate any matter relating to the registration, sale, transportation, or use of pesticides, unless otherwise specifically provided. Existing law also requires the Director of Pesticide Regulation to, among other things, notify a promulgating entity if the director determines that an ordinance or regulation is preempted by state law and to provide technical assistance to any state agency disseminating information on the pesticidal uses of any product, as provided.

This bill would delete those provisions of existing law.

This bill would declare that it is to take effect immediately as an urgency statute.

Existing law, the California Marketing Act of 1937, provides that the Secretary of Food and Agriculture may issue marketing orders that regulate producer marketing, the processing, distributing, or handling in any manner of any commodity by any and all persons, issue marketing orders that regulate the handling, processing, preparation for marketing, or marketing of any commodity that is produced in this state, and enter into marketing agreements with processors, distributors, producers, and others that are engaged in the handling of any commodity, that regulate the preparation for market and handling of that commodity, as specified.

~~This bill would require the California Research Bureau of the California State Library to prepare a summary of the available literature on the effectiveness of marketing orders, councils, and commissions and submit the summary to the Legislature and would require the Department of Food and Agriculture and respective councils and commissions to cooperate with the bureau by providing requested information for this report.~~

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

- 1 SECTION 1. Section 11501.1 of the Food and Agricultural
- 2 Code is repealed.
- 3 11501.1. (a) ~~This division and Division 7 (commencing with~~
- 4 ~~Section 12501) are of statewide concern and occupy the whole~~
- 5 ~~field of regulation regarding the registration, sale, transportation,~~
- 6 ~~or use of pesticides to the exclusion of all local regulation. Except~~
- 7 ~~as otherwise specifically provided in this code, no ordinance or~~
- 8 ~~regulation of local government, including, but not limited to, an~~
- 9 ~~action by a local governmental agency or department, a county~~
- 10 ~~board of supervisors or a city council, or a local regulation adopted~~
- 11 ~~by the use of an initiative measure, may prohibit or in any way~~
- 12 ~~attempt to regulate any matter relating to the registration, sale,~~
- 13 ~~transportation, or use of pesticides, and any of these ordinances,~~
- 14 ~~laws, or regulations are void and of no force or effect.~~
- 15 (b) ~~If the director determines that an ordinance or regulation,~~
- 16 ~~on its face or in its application, is preempted by subdivision (a),~~
- 17 ~~the director shall notify the promulgating entity that it is preempted~~

1 by state law. If the entity does not repeal its ordinance or regulation,
2 the director shall maintain an action for declaratory relief to have
3 the ordinance or regulation declared void and of no force or effect,
4 and shall also bring an action to enjoin enforcement of the
5 ordinance or regulation.

6 ~~(e) Neither this division nor Division 7 (commencing with~~
7 ~~Section 12501) is a limitation on the authority of a state agency~~
8 ~~or department to enforce or administer any law that the agency or~~
9 ~~department is authorized or required to enforce or administer.~~

10 ~~(d) At the request of any state agency disseminating information~~
11 ~~on the pesticidal uses of any product, the director shall consult~~
12 ~~with, and provide technical assistance to, that agency to ensure~~
13 ~~that the dissemination is based on valid scientific information and~~
14 ~~consistent with state law.~~

15 *SEC. 2. This act is an urgency statute necessary for the*
16 *immediate preservation of the public peace, health, or safety within*
17 *the meaning of Article IV of the Constitution and shall go into*
18 *immediate effect. The facts constituting the necessity are:*

19 *In order to ensure that local governments are able to protect*
20 *the health of their residents from toxic chemicals, it is necessary*
21 *that this act take effect immediately.*

22 ~~SECTION 1. The California Research Bureau of the California~~
23 ~~State Library shall prepare a summary of the available literature~~
24 ~~on the effectiveness of marketing orders, councils, and~~
25 ~~commissions and submit the summary to the Legislature. By~~
26 ~~December 1, 2007, the California Research Bureau shall provide~~
27 ~~the agricultural policy committees of the Assembly and the Senate~~
28 ~~with an estimated schedule for completion of this summary. The~~
29 ~~Department of Food and Agriculture and respective councils and~~
30 ~~commissions shall cooperate with the bureau by providing~~
31 ~~requested information for this report.~~