

Assembly Bill No. 2763

CHAPTER 573

An act to add Chapter 4.5 (commencing with Section 5260) to Part 1 of Division 4 of the Food and Agricultural Code, relating to pests.

[Approved by Governor September 29, 2008. Filed with
Secretary of State September 29, 2008.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2763, Laird. Invasive pests: advance planning: detection and eradication plans.

Existing law generally provides for the eradication of pests that threaten this state's agriculture.

This bill would require the Department of Food and Agriculture to develop and maintain a list of invasive pests, defined to mean animals, plants, insects, and plant and animal diseases or groups of those animals, plants, insects, and plant and animal diseases where introduction into California would or would likely cause economic or environmental harm, that have a reasonable likelihood of entering the state and for which a detection, exclusion, eradication, control, or management action by the state might be appropriate. The department would be required, based on available funding, to develop and maintain a written plan on the most appropriate options for detection, exclusion, eradication, control, or management of high-priority invasive pests on the list, and to include specified information in the plan if the aerial application of pesticides would be among the appropriate responses. Certain state agencies would be required to participate in the preparation of the plan and the department would be required to hold public hearings. The bill would require the department to notify the Governor, the governing boards of affected cities and counties, and county agricultural commissioners if an invasive pest on the list has entered the state, and, if the urban aerial application or communitywide ground application of a pesticide is the preferred eradication, control, or management response, to advise the Governor and provide the Governor with a copy of the plan. The department would also be required to, among other things, notify certain local governmental entities and officers, notify the public of specified health information, hold public hearings under certain circumstances, and establish a telephone hotline, if the department determines that an invasive pest has entered the state, and the urban aerial application or communitywide ground application of a pesticide is the selected response. The bill would require this act to be funded only with federal funds.

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

SECTION 1. Chapter 4.5 (commencing with Section 5260) is added to Part 1 of Division 4 of the Food and Agricultural Code, to read:

CHAPTER 4.5. INVASIVE PEST PLANNING

5260. The Legislature hereby finds and declares all of the following:

(a) Global travel, global trade, and climate change are introducing invasive animals, plants, insects, and plant and animal diseases to California.

(b) The State of California should undertake advance planning on whether and how to address those invasive animals, plants, insects, and plant and animal diseases that are a threat to the state's agriculture, environment, or economy.

(c) The Legislature fully recognizes that any prediction of which invasive pests will enter California cannot be precise because of the many entry mechanisms.

5260.5. For purposes of this chapter, "invasive pests" means animals, plants, insects, and plant and animal diseases or groups of those animals, plants, insects, and plant and animal diseases, including seeds, eggs, spores, or other matter capable of propagation, where introduction into California would or would likely cause economic or environmental harm. "Invasive pests" does not include agricultural crops, livestock, or poultry generally recognized by the department or the United States Department of Agriculture as suitable to be grown or raised in the state.

5261. The department shall develop and maintain a list of invasive pests that have a reasonable likelihood of entering California for which a detection, exclusion, eradication, control, or management action by the state might be appropriate. In developing the list, the department shall consider any invasive pests identified by the federal or state government for which a detection, exclusion, eradication, control, or management action might be undertaken.

5262. (a) Based on available funding, the department shall develop and maintain a written plan on the most appropriate options for detection, exclusion, eradication, control, or management of the higher priority invasive pests on the list prepared pursuant to Section 5261. In determining which invasive pests are the higher priority and in developing the most appropriate options for detection, exclusion, eradication, control, or management, the department shall consult with the United States Department of Agriculture, the University of California, other state agencies and departments, and others in the scientific and research community. In implementing this chapter, the department may undertake or contract for scientific research with the University of California or other institutions of higher learning. The plan shall include both of the following:

(1) A discussion of the state not acting to detect, exclude, eradicate, control, or manage the invasive pest.

(2) The identification and description of the most appropriate options for detection, exclusion, eradication, control, or management of the invasive pest.

(b) If the department determines that aerial application of pesticides would be among the more appropriate responses, the plan shall contain a discussion of all of the following:

- (1) The pesticides that would likely be the most appropriate.
- (2) The concentrations of those pesticides.
- (3) How often pesticide use would be necessary.
- (4) A list of each active ingredient and inert material, to the extent that the disclosure of the inert material is permitted by state and federal law.
- (5) A summary of up-to-date scientific information on the impacts of the pesticide and its inert materials on all of the following:
 - (A) Healthy children and adults.
 - (B) Children and adults with compromised health.
 - (C) Domestic animals.
 - (D) Fish and wildlife.
 - (E) Public health and the environment, including drinking water.

(c) The State Department of Public Health, the Department of Fish and Game, the Office of Environmental Health Hazard Assessment, the Department of Boating and Waterways, the Department of Forestry and Fire Protection, the State Water Resources Control Board, and the Department of Pesticide Regulation shall participate in the preparation of the plan in their areas of expertise. The Office of Environmental Health Hazard Assessment shall include an analysis of the risks of using the pesticide and its inert material.

(d) In developing the plan, the department shall hold public hearings that shall include a presentation by the department and the opportunity for public comment and establish a process for submittal of public comment. Following the public hearing, the department shall reassess the appropriateness of the response and may revise the response and may hold additional public hearings.

(e) The plan shall include a characterization of the number of and the nature of the public comments received pursuant to subdivision (d).

(f) The department shall make the plan available to the public, including making it available on the department's Internet Web site.

5263. If the department determines that an invasive pest identified on the list developed pursuant to Section 5261 has entered the state, the department shall notify the Governor, the governing boards of affected cities and counties, and county agricultural commissioners.

5264. If the department determines that an invasive pest has entered the state and the urban aerial application of a pesticide, or a communitywide ground application of a pesticide, is the preferred eradication, control, or management response, the department shall advise the Governor and provide the Governor with a copy of the plan for that invasive pest. If a plan has not been prepared for that invasive pest, the department shall consult with the

appropriate agencies and shall advise the Governor of the lack of a plan and advise the Governor of the best available options.

5265. If the department determines that an invasive pest has entered the state, and an urban aerial application of a pesticide, or a communitywide ground application of a pesticide, is the selected response, the department shall do all of the following:

(a) Notify the governing boards of affected cities and counties and their agricultural commissioners and health officers.

(b) Notify the public of all of the following:

(1) The existence of the invasive pest.

(2) The consequences of not eradicating, controlling, or managing the invasive pest.

(3) The active ingredient and inert material of the pesticide, to the extent that the disclosure of the inert material is permitted by state and federal law.

(4) The method or methods of applying the pesticide.

(5) The implications of the use of the pesticide and the inert materials on human health, domestic animals, fish and wildlife, and the environment.

(c) Hold public hearings in areas subject to aerial application of the pesticide or communitywide ground application of the pesticide.

(d) Establish a telephone hotline for the public to report adverse health consequences and a process to evaluate and respond to adverse health consequences.

5266. This program established by this chapter may only be funded with federal funds.

5267. This chapter does not apply to the following:

(a) The State Department of Public Health and local vector control agencies providing services in accordance with Section 116180 of the Health and Safety Code.

(b) Mosquito abatement and vector control districts authorized under Chapter 1 (commencing with Section 2000) of Division 3 of the Health and Safety Code.