

ASSEMBLY BILL

No. 21

Introduced by Assembly Member Bonnie Lowenthal

December 1, 2008

An act to add Section 14083 to the Food and Agricultural Code, relating to economic poisons.

LEGISLATIVE COUNSEL'S DIGEST

AB 21, as introduced, Bonnie Lowenthal. Economic poisons: methyl bromide.

Existing law requires the Director of Pesticide Regulation to adopt regulations that govern the use of methyl bromide and chloropicrin as field fumigants, and authorizes the director to prescribe the time when, and the conditions under which, methyl bromide and chloropicrin may be used in different areas of the state.

This bill would require the use of methyl bromide in this state to clean or fumigate a container used to transport goods to or from the state to be restricted to a manner and method of application that precludes exposure to any residential dwelling, school, day care facility, park, play area, or healthcare facility. The bill would require the Department of Pesticide Regulation to ensure certain matters regarding this use of methyl bromide. The bill would also require the department to levy a fee on those who use methyl bromide to clean or fumigate containers in order to cover the costs of administering and enforcing these provisions. A violation of the provisions of this bill would be a misdemeanor.

Because this bill would create new crimes, the bill would impose a state-mandated local program.

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.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) Trade activity through California's seaports is crucial to the
4 overall health of the state's economy.

5 (b) The economic benefits of ports to state, national, and global
6 economies are as follows:

7 (1) About 13.3 million Americans were employed in jobs created
8 by commercial port activities, and average wages for these jobs
9 were forty-nine thousand dollars (\$49,000) a year, twelve thousand
10 dollars (\$12,000) more than the average United States wage.

11 (2) Exporter/importer businesses and support industries that rely
12 on seaports contributed \$3.15 trillion to the United States economy
13 in 2007 and paid nearly \$212.5 billion in taxes that same year.

14 (3) Seaport activities in 2007 accounted for \$31.21 billion in
15 federal, state, and local tax revenues.

16 (4) Customs revenue through seaports was \$23.2 billion in 2007.

17 (5) Deep-draft ports, which accommodate oceangoing vessels,
18 account for 99 percent of United States overseas trade by weight
19 and 64 percent by value, international trade represents 29.7 percent
20 of the United States Gross Domestic Product, and the United States
21 is the largest trading nation in the world, accounting for 19 percent
22 of world goods trade.

23 (6) With regards to California, California's ports handle one-fifth
24 of all United States international trade, and Los Angeles and Long
25 Beach rank first and second in dollar value of goods processed.

26 (c) There are cases in which meeting the requirements of our
27 trading partners requires the use of methyl bromide in cleaning or
28 fumigating the containers used for shipments at the ports.

29 (d) Methyl bromide is an odorless and colorless gas that has
30 been used as a soil fumigant and structural fumigant to control

1 pests across a wide range of agricultural sectors. Methyl bromide
2 depletes the stratospheric ozone layer and has been largely phased
3 out with some exceptions for critical use where no substitute is
4 available and for quarantine and preshipment fumigation functions.

5 (e) Because methyl bromide poses a threat to humans, animals,
6 and the environment, it is in the interest of the state that its use be
7 conducted under careful and appropriate regulation.

8 (f) Workers who perform necessary fumigation with methyl
9 bromide are engaged in a dangerous activity and would benefit
10 from the most stringent health safeguards possible.

11 SEC. 2. Section 14083 is added to the Food and Agricultural
12 Code, to read:

13 14083. (a) The use of methyl bromide in this state to clean or
14 fumigate a container used to transport goods to or from the state
15 shall, pursuant to subdivision (b), be restricted to a manner and
16 method of application that precludes exposure to any residential
17 dwelling, school, day care facility, park, play area, or healthcare
18 facility.

19 (b) The department shall ensure all of the following with respect
20 to the use of methyl bromide as provided in subdivision (a):

21 (1) The use of methyl bromide is conducted beyond an
22 appropriate buffer zone from a residential dwelling, school, day
23 care facility, park, play area, or healthcare facility.

24 (2) The use of methyl bromide involves appropriate
25 pollution-capturing devices.

26 (3) Optional or unnecessary use of methyl bromide is reduced.

27 (4) Appropriate warnings are posted.

28 (5) Nonfumigant alternatives are used where possible.

29 (c) The department shall levy a fee on those who use methyl
30 bromide to clean or fumigate containers in order to cover the costs
31 of administering and enforcing this section.

32 SEC. 3. No reimbursement is required by this act pursuant to
33 Section 6 of Article XIII B of the California Constitution because
34 the only costs that may be incurred by a local agency or school
35 district will be incurred because this act creates a new crime or
36 infraction, eliminates a crime or infraction, or changes the penalty
37 for a crime or infraction, within the meaning of Section 17556 of
38 the Government Code, or changes the definition of a crime within

- 1 the meaning of Section 6 of Article XIII B of the California
- 2 Constitution.

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