

AMENDED IN ASSEMBLY APRIL 22, 2010

AMENDED IN ASSEMBLY APRIL 20, 2010

AMENDED IN ASSEMBLY APRIL 8, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2595**

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**Introduced by Assembly Member Huffman**

February 19, 2010

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An act to amend Section 12979 of the Food and Agricultural Code, and to add Section 13269.5 to the Water Code, relating to irrigated agriculture.

LEGISLATIVE COUNSEL'S DIGEST

AB 2595, as amended, Huffman. Irrigated agriculture: pesticide use: operator identification number: water quality: waste discharge requirements.

Existing law regulates pesticide use, as specified, and provides that a pesticide use report shall be submitted to the county agricultural commissioner or the Director of Pesticide Regulation, as specified, for use in the setting of priorities for, among other things, pesticide use enforcement and pest control research, environmental monitoring, and public health monitoring and research. Existing regulations provide that prior to the purchase or use of pesticides for the production of an agricultural commodity, the operator of the property, as defined, or the operator's authorized representative, shall obtain an operator identification number for pesticide use from the county agricultural commissioner of each county where pest control work will be performed.

This bill would codify that requirement relating to the operator identification number and, on and after January 1, 2012, would require

the county agricultural commissioner to withhold the issuance of an operator identification number for pesticide use if an operator of the property is found to be in violation of specified water quality requirements after *the exhaustion of all administrative proceedings and appeals have been completed*, except as provided. *The bill would authorize a county agricultural commissioner to levy a civil penalty, as specified, on an operator who obtains an operator identification number by means of fraud.* By imposing new requirements on county agricultural commissioners, this bill would impose a state-mandated local program.

Existing law, the Porter-Cologne Water Quality Control Act, requires the State Water Resources Control Board (state board) and a California regional water quality control board (regional board) to prescribe waste discharge requirements, as specified. The act authorizes the state board and a regional board to waive certain waste discharge requirements as to a specific discharge or type of discharge if the state board or the regional board makes a specified determination.

~~This~~

*For purposes of implementing the provisions relating to the issuance of an operator identification number for pesticide use, this bill would require the state board or a regional board to provide notice to the Department of Pesticide Regulation and the appropriate county agricultural commissioners if, pursuant to an administrative order and after the exhaustion of all administrative proceedings and appeals, the state board or the regional board finds that an operator of the property, as defined, is in violation of any specified water quality requirements after all administrative appeals have been completed. The bill would require the state board or the regional board to issue a written certification of compliance to an operator of the property upon remedying the violation, and payment of administrative civil liability imposed, for those specified water quality violations. The bill would require the county agricultural commissioner, upon receipt of a certificate of compliance, to immediately issue the withheld operator identification number to an operator who has remedied the subject violation or violations.* The bill would also make a technical, nonsubstantive change to the provisions.

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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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. Section 12979 of the Food and Agricultural Code  
2 is amended to read:

3 12979. (a) A pesticide use report shall be submitted to the  
4 commissioner or director on a form and in a manner prescribed  
5 by the director. The data from the pesticide use reports shall be  
6 considered in setting priorities for food monitoring, pesticide use  
7 enforcement, farm worker safety programs, environmental  
8 monitoring, pest control research, public health monitoring and  
9 research, and similar activities by the department, or by the  
10 department in cooperation with other state, regional, or local  
11 agencies with appropriate authority.

12 (b) Pursuant to Section 6622 of Title 3 of the California Code  
13 of Regulations, or any successor regulation, prior to the purchase  
14 or use of pesticides for the production of an agricultural  
15 commodity, the operator of the property, or the operator's  
16 authorized representative, shall obtain an operator identification  
17 number for pesticide use from the ~~county agricultural~~ commissioner  
18 of each county where pest control work will be performed.

19 ~~(e) (1) As of January 1, 2012, the county agricultural~~  
20 ~~commissioner shall withhold the issuance of an operator~~  
21 ~~identification number for pesticide use pursuant to subdivision (b)~~  
22 ~~if the State Water Resources Control Board or a California regional~~  
23 ~~water quality control board finds the grower or operator to be in~~  
24 ~~violation of any of the following water quality requirements after~~  
25 ~~all administrative appeals have been completed:~~

26 ~~(A) Failure to furnish a report required pursuant to Section~~  
27 ~~13267 of the Water Code.~~

28 ~~(B) Failure to obtain an individual or general waiver of waste~~  
29 ~~discharge requirements relating to irrigated agriculture pursuant~~  
30 ~~to Section 13269 of the Water Code.~~

1 ~~(C) Failure to comply with individual or general waste discharge~~  
2 ~~requirements relating to irrigated agriculture pursuant to Section~~  
3 ~~13263 of the Water Code.~~

4 ~~(2) This subdivision shall not apply in any county for which the~~  
5 ~~regional water quality control board has not adopted a requirement~~  
6 ~~that growers or operators obtain coverage under waste discharge~~  
7 ~~requirements, or a waiver of waste discharge requirements, relating~~  
8 ~~to irrigated agriculture.~~

9 *(c) (1) As of January 1, 2012, a commissioner shall withhold*  
10 *the issuance of an operator identification number for pesticide use*  
11 *pursuant to subdivision (b) if, pursuant to a notice transmitted in*  
12 *accordance with Section 13269.5 of the Water Code, the operator*  
13 *of the property is found to be in violation of any of the following*  
14 *water quality requirements:*

15 *(A) A requirement to obtain individual or general waste*  
16 *discharge requirements.*

17 *(B) A requirement to furnish a report pursuant to Section 13267*  
18 *of the Water Code.*

19 *(C) A requirement to enroll in the Irrigated Lands Conditional*  
20 *Waiver Program, or obtain an individual or general waiver of*  
21 *waste discharge requirements, pursuant to Section 13269 of the*  
22 *Water Code.*

23 *(2) Upon receipt of a certificate of compliance issued by the*  
24 *State Water Resources Control Board or California regional water*  
25 *quality control board, pursuant to subdivision (b) of Section*  
26 *13269.5 of the Water Code, that an operator subject to paragraph*  
27 *(1) has remedied the subject violation or violations, the*  
28 *commissioner shall immediately issue that operator an operator*  
29 *identification number for pesticide use.*

30 *(3) A commissioner shall not withhold issuance of an operator*  
31 *identification number pursuant to subparagraph (A) or (C) of*  
32 *paragraph (1) in a county for which the State Water Resources*  
33 *Control Board or a California regional water quality control board*  
34 *has not adopted a requirement that operators of the property*  
35 *comply with waste discharge requirements or obtain a waiver of*  
36 *waste discharge requirements relating to irrigated agriculture.*

37 *(d) The commissioner may levy a civil penalty of not more than*  
38 *five thousand dollars (\$5,000), pursuant to Section 12999.5, on*  
39 *an operator of the property who obtains an operator identification*  
40 *number by means of fraud.*

1     ~~(d)~~

2     (e) The director may adopt regulations to carry out the provisions  
3 of this section. The director shall consult with the State Water  
4 Resources Control Board and with ~~county agricultural~~  
5 commissioners in the development of regulations relating to  
6 subdivision (c) in order to ensure that any requirements imposed  
7 shall result in minimal disruption to the process of issuing operator  
8 identification numbers for pesticide use.

9     ~~SEC. 2. Section 13269.5 is added to the Water Code, to read:~~

10     ~~13269.5. (a) The state board or a regional board shall provide~~  
11 ~~notice to the Department of Pesticide Regulation and the~~  
12 ~~appropriate county agricultural commissioners if, after all~~  
13 ~~administrative appeals are completed, an operator of the property~~  
14 ~~is in violation of any of the water quality requirements listed in~~  
15 ~~subdivision (e) of Section 12979 of the Food and Agricultural~~  
16 ~~Code.~~

17     ~~(b) As used in this section, “operator of the property” has the~~  
18 ~~same meaning as set forth in Section 6000 of Title 3 of the~~  
19 ~~California Code of Regulations.~~

20     ~~SEC. 2. Section 13269.5 is added to the Water Code, to read:~~

21     ~~13269.5. (a) (1) For purposes of subdivision (c) of Section~~  
22 ~~12979 of the Food and Agricultural Code, the state board or a~~  
23 ~~regional board shall provide a notice to the Department of~~  
24 ~~Pesticide Regulation and the appropriate county agricultural~~  
25 ~~commissioners if, pursuant to an order of the state board or the~~  
26 ~~regional board, and after the exhaustion of all administrative~~  
27 ~~proceedings and appeals, the operator of the property is found to~~  
28 ~~be in violation of any of the following water quality requirements:~~

29     ~~(A) A requirement to obtain individual or general waste~~  
30 ~~discharge requirements.~~

31     ~~(B) A requirement to furnish a report pursuant to Section 13267.~~

32     ~~(C) A requirement to enroll in the Irrigated Lands Conditional~~  
33 ~~Waiver Program, or obtain an individual or general waiver of~~  
34 ~~waste discharge requirements, pursuant to Section 13269.~~

35     ~~(2) Subparagraphs (A) and (C) of paragraph (1) shall not apply~~  
36 ~~in a county for which the state board or a regional board has not~~  
37 ~~adopted a requirement that operators of the property comply with~~  
38 ~~waste discharge requirements or a waiver of waste discharge~~  
39 ~~requirements relating to irrigated agriculture.~~

1     (3) *The state board or the regional board shall transmit a notice*  
2 *pursuant to paragraph (1) only if 30 days have elapsed after the*  
3 *date on which all administrative proceedings and appeals of the*  
4 *order issued by the state board or the regional board are*  
5 *exhausted, and the operator of the property has not complied with*  
6 *the order and paid any administrative civil liability imposed for*  
7 *the violation.*

8     (b) *For purposes of subdivision (c) of Section 12979 of the Food*  
9 *and Agricultural Code, the state board or the regional board shall*  
10 *issue a written certificate of compliance to the operator of the*  
11 *property if the operator has remedied the violation and paid any*  
12 *administrative civil liability imposed for a violation of any of the*  
13 *water quality requirements listed in paragraph (1) of subdivision*  
14 *(a).*

15     (c) *As used in this section, “operator of the property” has the*  
16 *same meaning as set forth in Section 6000 of Title 3 of the*  
17 *California Code of Regulations.*

18     SEC. 3. If the Commission on State Mandates determines that  
19 this act contains costs mandated by the state, reimbursement to  
20 local agencies and school districts for those costs shall be made  
21 pursuant to Part 7 (commencing with Section 17500) of Division  
22 4 of Title 2 of the Government Code.