

AMENDED IN SENATE AUGUST 17, 2010

AMENDED IN SENATE AUGUST 2, 2010

AMENDED IN ASSEMBLY APRIL 22, 2010

AMENDED IN ASSEMBLY APRIL 20, 2010

AMENDED IN ASSEMBLY APRIL 8, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

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**ASSEMBLY BILL**

**No. 2595**

**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 and requires a pesticide use report to 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, pursuant to a notice transmitted by the State Water Resources Control Board or a California regional water quality control board, 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, ~~except as provided~~. The bill would authorize a county agricultural commissioner to levy a specified civil penalty 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.

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, 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. The bill would prohibit the state board or the regional board from transmitting the notice unless 30 days have elapsed after the date on which specified administrative or judicial appeals and proceedings are exhausted. 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 the 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 commissioner of each county  
18 where pest control work will be performed.

19 (c) (1) As of January 1, 2012, a commissioner shall withhold  
20 the issuance of an operator identification number for pesticide use  
21 pursuant to subdivision (b) if, pursuant to a notice transmitted in  
22 accordance with Section 13269.5 of the Water Code, the operator  
23 of the property is found to be in violation of any of the following  
24 water quality requirements:

25 (A) A requirement to obtain individual or general waste  
26 discharge requirements.

1 (B) A requirement to furnish a report pursuant to Section 13267  
2 of the Water Code.

3 (C) A requirement to enroll in the Irrigated Lands Conditional  
4 Waiver Program, or obtain an individual or general waiver of waste  
5 discharge requirements, pursuant to Section 13269 of the Water  
6 Code.

7 (2) Upon receipt of a certificate of compliance issued by the  
8 State Water Resources Control Board or a California regional  
9 water quality control board, pursuant to subdivision (b) of Section  
10 13269.5 of the Water Code, that an operator subject to paragraph  
11 (1) has remedied the subject violation or violations, the  
12 commissioner shall immediately issue that operator an operator  
13 identification number for pesticide use.

14 ~~(3) A commissioner shall not withhold issuance of an operator~~  
15 ~~identification number pursuant to subparagraph (A) or (C) of~~  
16 ~~paragraph (1) in a county for which the State Water Resources~~  
17 ~~Control Board or a California regional water quality control board~~  
18 ~~has not adopted a requirement that operators of the property comply~~  
19 ~~with waste discharge requirements or obtain a waiver of waste~~  
20 ~~discharge requirements relating to irrigated agriculture.~~

21 (4)

22 (3) (A) An appeal or petition for review of an action or  
23 determination of the State Water Resources Control Board or a  
24 California regional water quality control board described in this  
25 subdivision shall be subject to the procedures set forth in Sections  
26 13320 and 13330 of the Water Code.

27 (B) An action of a commissioner pursuant to this subdivision  
28 is not subject to the procedures set forth in Section 11512.5.

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

33 (e) The director may adopt regulations to carry out the provisions  
34 of this section. The director shall consult with the State Water  
35 Resources Control Board and with commissioners in the  
36 development of regulations relating to subdivision (c) in order to  
37 ensure that any requirements imposed shall result in minimal  
38 disruption to the process of issuing operator identification numbers  
39 for pesticide use.

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

1 13269.5. (a) (1) For purposes of subdivision (c) of Section  
2 12979 of the Food and Agricultural Code, the state board or a  
3 regional board shall provide a notice to the Department of Pesticide  
4 Regulation and the appropriate county agricultural commissioners  
5 if, pursuant to an order of the state board or the regional board,  
6 the operator of the property is found to be in violation of any of  
7 the following water quality requirements:

8 (A) A requirement to obtain individual or general waste  
9 discharge requirements.

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

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

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

19 ~~(3)~~

20 (2) If the operator of the property petitions the state board or  
21 the superior court, pursuant to Section 13320 or 13330, for review  
22 of an order described in paragraph (1), the state board or the  
23 regional board shall not transmit a notice pursuant to paragraph  
24 (1) unless 30 days have elapsed after the date on which all  
25 proceedings and appeals of the order are exhausted, and the  
26 operator of the property has not complied with the order and paid  
27 any civil liability imposed for the violation.

28 (b) For purposes of subdivision (c) of Section 12979 of the Food  
29 and Agricultural Code, the state board or the regional board shall  
30 issue a written certificate of compliance to the operator of the  
31 property if the operator has remedied the violation and paid any  
32 administrative civil liability imposed for a violation of any of the  
33 water quality requirements listed in paragraph (1) of subdivision  
34 (a).

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

38 SEC. 3. If the Commission on State Mandates determines that  
39 this act contains costs mandated by the state, reimbursement to  
40 local agencies and school districts for those costs shall be made

- 1 pursuant to Part 7 (commencing with Section 17500) of Division
- 2 4 of Title 2 of the Government Code.

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