

Senate Bill No. 1157

Passed the Senate August 26, 2010

Secretary of the Senate

Passed the Assembly August 23, 2010

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2010, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 12841 and 13183 of the Food and Agricultural Code, relating to pesticides.

LEGISLATIVE COUNSEL'S DIGEST

SB 1157, DeSaulnier. Education: Healthy Schools Act of 2010.

(1) Existing law generally regulates pesticide use and requires the Department of Pesticide Regulation to promote and facilitate the voluntary adoption of integrated pest management by school districts. Existing law requires every person who sells a pesticide product for use in this state that has been registered by the Director of Pesticide Regulation to pay an assessment at a specified rate.

This bill, commencing January 1, 2014, would require all schoolsites, as defined, to adopt an integrated pest management program as established, administered, and enforced by the department. This bill would also require, beginning January 1, 2012, that the rate of the assessment on registered pesticide products be augmented to reimburse the department, local agencies, and school districts for the cost of adopting integrated pest management programs at schoolsites.

Because the bill would impose new duties on school districts, it would impose a state-mandated local program.

(2) 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.

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

SECTION 1. (a) The Legislature hereby finds and declares all of the following:

(1) Pesticides have been linked to numerous acute and chronic illnesses, including cancer and asthma.

(2) According to the federal Centers for Disease Control and Prevention, children between 6 and 11 years of age have higher levels of commonly used pesticides in their bodies than any other age group, with an average of six pesticides per child. According to research conducted by the University of California, San Francisco, children's diseases and conditions linked to pesticide exposure, which include learning disabilities, cancer of the brain and leukemia, birth defects, and asthma, have increased dramatically over the past 30 years. Because children's bodies and brains are still developing, exposure to pesticides can have irreversible detrimental effects.

(3) Recognizing the impact of pesticides on the school community, the Department of Pesticide Regulation has developed an Internet Web site, written training materials, and conducted regional training sessions to assist schools that have chosen to adopt least-toxic integrated pest management techniques and to eliminate use of the most dangerous pesticides.

(4) However, many California public schools continue to use highly toxic pesticides. Least-toxic pest management activities have actually decreased from 2004 to 2007, inclusive, as measured by the report titled, 2007 Integrated Pest Management Survey of California School Districts, prepared for the Department of Pesticide Regulation. Forty-two percent of school districts that responded to the survey stated that they were still broadcast spraying pesticides, one of the highest risk practices for exposing children and staff and contaminating the environment. Of the school districts that claimed to be implementing integrated pest management practices, 62 percent stated that the costs were the same or less than using chemical-intensive methods.

(5) According to the State Department of Education, there are over 1,000 school districts, and about 9,900 schoolsites in California servicing over 6,000,000 pupils.

(6) It is necessary to take precautionary measures to protect the health and safety of California schoolchildren and teachers, and better ensure a safe learning and working environment.

(b) This act shall be known, and may be cited, as the Healthy Schools Act of 2010.

SEC. 2. Section 12841 of the Food and Agricultural Code is amended to read:

12841. (a) It is unlawful for a person to sell for use in this state any pesticide products that have been registered by the director for which the mill assessment established by this article, and the regulations adopted pursuant to it, is not paid at the times specified in Section 12843.

(b) Except as provided in subdivision (d), every person who sells for use in this state a pesticide product that has been registered by the director shall pay to the director the applicable assessment. Those sales expressly include all sales made electronically, telephonically, or by any other means that result in a pesticide product being shipped to or used in this state. There is a rebuttable presumption that pesticide products that are sold or distributed into or within this state by any person are sold or distributed for use in this state.

(c) (1) Upon application of a registrant, the director shall determine whether a fertilizer or paper product is used as a carrier for a pesticide, and is sold in combination, and whether the mill assessment under this article shall be on the pesticide value only, when the product is designed, developed, and manufactured, and sold primarily for other than a pesticide use. If the director finds that the combination product has such a major component and is designed, developed, manufactured, and sold primarily for other than a pesticide use, the assessment provided by this article shall be paid on the equivalent percentage of the sales price of the active ingredients of the pesticide product. The director shall establish this percentage of the sales price. The percentage shall be the ratio of that portion of the sales price attributable to the pesticide portion to the total sales price of the combination product.

(2) For purposes of this section, “active ingredient” means any active ingredient that is required to be stated on the label on any registered pesticide under Section 12883.

(d) Assessments provided for in this article for sales of registered pesticides that are sold for use in this state shall be paid by the registrant except as follows:

(1) In those cases where the registrant did not first sell the pesticide into or within this state or have actual knowledge, at the time of its sale, that the pesticide would be sold for use in this state, the assessment shall be paid by the licensed pesticide broker, licensed pest control dealer, or other person who first sold the pesticide for use in this state.

(2) A person is not required to pay an assessment on registered products that are labeled only for use in further manufacturing or formulating of pesticides.

(e) It has been and continues to be the intent of the Legislature that this division requires the department to register all pesticides prior to their sale for use in this state and, except as otherwise provided by law, requires the department to regulate and control the use of pesticides in accordance with this division. Except as provided in Section 12841.1, the department shall continue to collect the assessment as provided in this article at the same rate on all registered agricultural and registered nonagricultural pesticides.

(f) (1) The mill assessment shall be paid at the following rates per dollar of sales for all sales of pesticides for use in this state:

(A) From January 1, 1998, to March 31, 1999, inclusive, the rate shall be 15.15 mills (\$0.01515) plus any additional assessment authorized by Section 12841.1.

(B) From April 1, 1999, to December 31, 2002, inclusive, the rate shall be 17.5 mills (\$0.0175) plus any additional assessment authorized by Section 12841.1.

(C) From January 1, 2003, to December 31, 2003, inclusive, the rate shall be 17.5 mills (\$0.0175).

(D) (i) For all transactions on or after January 1, 2004, the actual rate shall be that set by regulations adopted by the director at a rate adequate to support the department's annual expenditures authorized in the annual Budget Act and provide a prudent reserve. The rate set by the director shall be no greater than 21 mills (\$0.021). However, if regulations are not adopted before a payment is due, payment shall be made at the rate of 17.5 mills (\$0.0175), and, upon adoption of regulations, payment of any additional amount due shall be made.

(ii) Beginning January 1, 2012, the actual rate shall be augmented, as set by regulations adopted by the director, at a rate adequate to reimburse the department for the cost of administering and enforcing Section 13183, and reimbursing local agencies and school districts for the cost of implementing Section 13183.

(2) The regulations adopted pursuant to this section, or any amendment thereto, shall be adopted by the director in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. However, the

adoption, amendment, readoption, or repeal of these regulations shall be considered by the Office of Administrative Law as an emergency, and necessary for the immediate preservation of the public peace, health, safety, and general welfare. Notwithstanding any other provision of law, the regulations shall remain in effect until amended by the director. The director shall make available to the public, upon the adoption of an emergency regulation establishing a new rate, the information upon which the director has calculated, based, or determined the new rate.

(g) The revenue collected pursuant to this section shall be deposited in the Department of Pesticide Regulation Fund and distributed as follows:

(1) Notwithstanding Sections 2282 and 12784, the director shall pay, in accordance with the criteria set forth in Section 12844, the following amounts to the counties as reimbursement for costs incurred by the counties in the administration and enforcement of Division 6 (commencing with Section 11401), this chapter, Chapter 3 (commencing with Section 14001), Chapter 3.4 (commencing with Section 14090), and Chapter 3.5 (commencing with Section 14101):

(A) From January 1, 1998, to March 31, 1998, inclusive, five-eighths of the money received during that period pursuant to this section.

(B) From April 1, 1998, to June 30, 2004, an amount equal to the revenue derived from 6 mills (\$0.006) per dollar of sales for all pesticide sales for use in this state.

(C) Beginning July 1, 2004, an amount equal to the revenue derived from 7.6 mills (\$0.0076) per dollar of sales for all pesticide sales for use in this state.

(2) All funds not otherwise distributed pursuant to this subdivision shall remain in the Department of Pesticide Regulation Fund and shall be available for expenditure, upon appropriation, to support the department's operations.

SEC. 3. Section 13183 of the Food and Agricultural Code is amended to read:

13183. (a) The Department of Pesticide Regulation shall promote and facilitate the voluntary adoption of integrated pest management programs for schoolsites, excluding privately operated child day care facilities, as defined in Section 1596.750 of the

Health and Safety Code, that voluntarily choose to do so. For these schoolsites, the department shall do all of the following:

(1) Establish an integrated pest management program for schoolsites consistent with Section 13181. In establishing the program, the department shall:

(A) Develop criteria for identifying least-hazardous pest control practices and encourage their adoption as part of an integrated pest management program at each schoolsite.

(B) Develop a model program guidebook that prescribes essential program elements for schoolsites that have adopted a least-hazardous integrated pest management program. At a minimum, this guidebook shall include guidance on all of the following:

- (i) Adopting an IPM policy.
- (ii) Selecting and training an IPM coordinator.
- (iii) Identifying and monitoring pest populations and damage.
- (iv) Establishing a community-based school district advisory committee.
- (v) Developing a pest management plan for making least-hazardous pest control choices.
- (vi) Contracting for integrated pest management services.
- (vii) Training and licensing opportunities.
- (viii) Establishing a community-based right-to-know standard for notification and posting of pesticide applications.
- (ix) Recordkeeping and program review.

(2) Make the model program guidebook available to schoolsites and establish a process for systematically updating the guidebook and supporting documentation.

(b) Commencing on January 1, 2014, all schoolsites, as defined in Section 17609 of the Education Code, excluding family day care homes as defined in Section 1596.78 of the Health and Safety Code, shall adopt an integrated pest management program consistent with Section 13181, as established, administered, and enforced by the department.

(c) The department shall promote and facilitate the voluntary adoption of integrated pest management programs at child day care facilities, as defined in Section 1596.750 of the Health and Safety Code, through the following:

(1) Modifying the department's existing integrated pest management program for schoolsites as described in subdivision (a) for the child day care setting.

(2) Creating or modifying existing educational and informational materials on integrated pest management for the child day care setting.

(3) Making the materials available to child day care facilities and establishing a process for systematically updating them.

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

Approved _____, 2010

Governor