

AMENDED IN ASSEMBLY MAY 14, 2012  
AMENDED IN ASSEMBLY APRIL 30, 2012  
AMENDED IN ASSEMBLY APRIL 11, 2012  
AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2284**

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**Introduced by Assembly Member Chesbro  
(Coauthors: Assembly Members Fong, Halderman, and Huffman)**

February 24, 2012

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An act to add Section 12025 to the Fish and Game Code, and to add Section 2810.2 to the Vehicle Code, relating to irrigation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2284, as amended, Chesbro. Irrigation.

(1) Existing law establishes fines and penalties for a violation of the Fish and Game Code.

This bill would impose additional civil penalties for a violation of specified provisions of the Fish and Game Code in connection with the production or cultivation of a controlled substance, as defined, on land within the jurisdiction of specified state and federal agencies or within the ownership of a timber preserve zone, at an amount determined by the Fish and Game Commission, as prescribed.

(2) Existing law authorizes a member of the California Highway Patrol to stop any vehicle transporting any timber products, livestock, poultry, farm products, crude oil, petroleum products, or inedible kitchen grease, and inspect the bills of lading, shipping, or delivery papers, or other evidence to determine whether the driver is in legal possession

of the load, and, upon reasonable belief that the driver of the vehicle is not in legal possession, to take custody of the vehicle and load and turn them over to the custody of the sheriff of the county in which any of those items are apprehended. Existing law also generally prohibits a person from driving a motor vehicle upon a highway, unless the person then holds a valid driver's license.

This bill would authorize a member of the California Highway Patrol or the sheriff or a deputy sheriff to stop a vehicle transporting agricultural irrigation supplies, as defined, that are in plain view on a rock or unpaved road within the jurisdiction of specified state or federal agencies or within the ownership of a timber preserve zone and inspect the bills of lading, shipping, or delivery papers, or other evidence to determine whether the driver is in legal possession of the load, and, upon reasonable belief that the driver of the vehicle is not in legal possession, to take custody of the vehicle and load and turn them over to the custody of the sheriff of the county in which any of those items are apprehended. The bill would, *except as specified*, prohibit a peace officer from impounding a vehicle at a traffic stop made pursuant to this authorization if the driver's only offense is a violation of the prohibition against driving a motor vehicle upon a highway without holding a valid driver's license. The bill would require a peace officer making ~~such a~~ *the* stop who encounters a driver in violation of this prohibition to take certain actions with regard to obtaining from the registered owner of the vehicle authorization to release the vehicle to a licensed driver.

Because the sheriff *and deputy sheriff* would be required to receive and provide for the care and safekeeping of the seized agricultural irrigation supplies *and to take certain actions regarding a vehicle driven by a person without a valid driver's license that is stopped as provided above*, this bill would impose a state-mandated local program.

(3) The bill would declare the intent of the Legislature that the implementation of the bill's provisions not contradict the purposes or application of the Compassionate Use Act of 1996.

(4) 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. The Legislature finds and declares all of the  
2 following:

3 (a) As a result of the closure and lack of staffing at numerous  
4 state parks, those parks and other resource lands have become  
5 infested with illegal marijuana cultivation.

6 (b) The illegal marijuana growing sites create a hazard for those  
7 who recreate on these public resource lands. Some of the most  
8 recent events that showed the relative danger ~~were the murder of~~  
9 ~~Matthew Coleman and~~ *was the murder of* Fort Bragg City Council  
10 Member Jere Melo who surveyed the forest for illegal marijuana  
11 growth in connection with local law enforcement and ~~were was~~  
12 killed in the course of ~~their jobs~~ *his job*.

13 (c) The marijuana growsites often are constructed without regard  
14 for the environment or wildlife.

15 (d) Because the illegal marijuana cultivation operations are set  
16 up deep in resource land, all the equipment is brought in and  
17 constructed without consideration for the environmental effects.

18 (e) Many illegal marijuana growsites include water diversion  
19 with irrigation pipes, generators, and batteries to power the  
20 cultivation equipment and camp, illegal damming and water  
21 diversion, and pesticides and insecticides that are sometimes added  
22 directly to streams and ponds.

23 SEC. 2. Section 12025 is added to the Fish and Game Code,  
24 to read:

25 12025. (a) In addition to any penalties imposed by any other  
26 law, a person found to have violated Section 1602, 5650, or 5652  
27 in connection with the production or cultivation of a controlled  
28 substance on land within the respective jurisdiction of the  
29 Department of Parks and Recreation, the Department of Fish and  
30 Game, the Department of Forestry and Fire Protection, the United  
31 States Forest Service, or the Bureau of Land Management, or  
32 within the respective ownership of a timberland preserve zone, as  
33 defined in Section 51110 of the Government Code, *of more than*  
34 *50,000 acres*, shall be liable for a civil penalty in the following  
35 amounts:

1 (1) A person who violates Section 1602 in connection with the  
2 production or cultivation of a controlled substance is subject to a  
3 civil penalty of not more than ten thousand dollars (\$10,000) for  
4 each violation.

5 (2) A person who violates Section 5650 in connection with the  
6 production or cultivation of a controlled substance is subject to a  
7 civil penalty of not more than forty thousand dollars (\$40,000) for  
8 each violation.

9 (3) A person who violates Section 5652 in connection with the  
10 production or cultivation of a controlled substance is subject to a  
11 civil penalty of not more than forty thousand dollars (\$40,000) for  
12 each violation.

13 (b) The civil penalty imposed for each separate violation  
14 pursuant to this section is in addition to any other civil penalty  
15 imposed for another violation of this section, or any violation of  
16 any other law.

17 (c) All civil penalties collected for a separate violation pursuant  
18 to this section shall not be considered to be fines or forfeitures, as  
19 described in Section 13003, and shall be apportioned in the  
20 following manner:

21 (1) Thirty percent shall be distributed to the county in which  
22 the violation was committed pursuant to Section 13003. The county  
23 board of supervisors shall first use any revenues from those  
24 penalties to reimburse the costs incurred by the district attorney  
25 or city attorney in investigating and prosecuting the violation.

26 (2) Thirty percent shall be distributed to the ~~lead~~ investigating  
27 agency to be used to reimburse the cost of any investigation directly  
28 related to the violations described in this section.

29 (3) Forty percent shall be distributed to the ~~primary investigating~~  
30 *agency performing the clean up or abatement of the cultivation or*  
31 *production site* for the reimbursement for all reasonable costs  
32 associated with the clean up or abatement ~~of the cultivation or~~  
33 ~~production site~~.

34 (d) For the purposes of this section, “controlled substance” has  
35 the same meaning as defined in Section 11007 of the Health and  
36 Safety Code.

37 SEC. 3. Section 2810.2 is added to the Vehicle Code, to read:

38 2810.2. (a) (1) A member of the California Highway Patrol,  
39 a sheriff, or a deputy sheriff may stop any vehicle transporting  
40 agricultural irrigation supplies that are in plain view *to inspect the*

1 *bills of lading, shipping, or delivery papers, or other evidence to*  
2 *determine whether the driver is in legal possession of the load, if*  
3 *the vehicle is on a rock road or unpaved road as follows:*

4 (A) *Located within the respective jurisdiction of the Department*  
5 *of Parks and Recreation, the Department of Fish and Game, the*  
6 *Department of Forestry and Fire Protection, the United States*  
7 *Forest Service, or the Bureau of Land Management, or*  
8 *Management.*

9 (B) *Located within the respective ownership of a timberland*  
10 *preserve zone, and inspect the bills of lading, shipping, or delivery*  
11 *papers, or other evidence to determine whether the driver is in*  
12 *legal possession of the load, and, upon as defined in Section 51104*  
13 *of the Government Code, either that is larger than 50,000 acres*  
14 *or for which the owner has given express written permission for*  
15 *a vehicle to be stopped within that zone pursuant to this section.*

16 (2) *Upon reasonable belief that the driver of the vehicle is not*  
17 *in legal possession, the law enforcement officer specified in*  
18 *paragraph (1) shall take custody of the vehicle and load and turn*  
19 *them over to the custody of the sheriff of the county where the*  
20 *agricultural irrigation supplies are apprehended.*

21 (b) *The sheriff shall receive and provide for the care and*  
22 *safekeeping of the apprehended agricultural irrigation supplies*  
23 *that were in plain view within the boundaries of a state park, state*  
24 *forest, or federal forest, or on timberland, and immediately, in*  
25 *cooperation with the department, proceed with an investigation*  
26 *and its legal disposition.*

27 (c) *Any expense incurred by the sheriff in the performance of*  
28 *his or her duties under this section shall be a legal charge against*  
29 *the county.*

30 (d) ~~*Except as provided in subdivision (e), a peace officer shall*~~  
31 ~~*not cause the impoundment of a vehicle at a traffic stop made*~~  
32 ~~*pursuant to subdivision (a) if the driver's only offense is a violation*~~  
33 ~~*of Section 12500.*~~

34 (e) *During the conduct of pulling a driver over in accordance*  
35 *with subdivision (a), if the peace officer encounters a driver who*  
36 *is in violation of Section 12500, the peace officer shall make a*  
37 *reasonable attempt to identify the registered owner of the vehicle.*  
38 *If the registered owner is present, or the peace officer is able to*  
39 *identify the registered owner and obtain the registered owner's*  
40 *authorization to release the motor vehicle to a licensed driver*

1 during the vehicle stop, the vehicle shall be released to either the  
2 registered owner of the vehicle if he or she is a licensed driver or  
3 to the licensed driver authorized by the registered owner of the  
4 vehicle. If a notice to appear is issued, the name and the driver's  
5 license number of the licensed driver to whom the vehicle was  
6 released pursuant to this subdivision shall be listed on the officer's  
7 copy of the notice to appear issued to the unlicensed driver. When  
8 a vehicle cannot be released, the vehicle shall be removed pursuant  
9 to subdivision (p) of Section 22651, whether a notice to appear  
10 has been issued or not.

11 (f) For the purposes of this section, ~~the following terms have~~  
12 ~~the following meanings:~~ "*agricultural irrigation supplies*" include  
13 *agricultural irrigation water bladder and drip irrigation tubing*.

14 (1) ~~"Agricultural irrigation supplies" include agricultural~~  
15 ~~irrigation water bladder, drip irrigation tubing, and fertilizer.~~

16 (2) ~~"Timberland preserve zone" has the same meaning as set~~  
17 ~~forth in Section 51110 of the Government Code.~~

18 SEC. 4. It is the intent of the Legislature that the  
19 implementation of Section 12025 of the Fish and Game Code and  
20 Section 2810.2 of the Vehicle Code, as added by this act and  
21 hereafter amended, not contradict the purposes or application of  
22 the Compassionate Use Act of 1996 (Section 11362.5 of the Health  
23 and Safety Code.

24 SEC. 5. The provisions of this act are severable. If any  
25 provision of this act or its application is held invalid, that invalidity  
26 shall not affect other provisions or applications that can be given  
27 effect without the invalid provision or application.

28 SEC. 6. If the Commission on State Mandates determines that  
29 this act contains costs mandated by the state, reimbursement to  
30 local agencies and school districts for those costs shall be made  
31 pursuant to Part 7 (commencing with Section 17500) of Division  
32 4 of Title 2 of the Government Code.