

Assembly Bill No. 224

Passed the Assembly September 10, 2013

Chief Clerk of the Assembly

Passed the Senate September 9, 2013

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2013, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 47000 of, and to add Article 6 (commencing with Section 47060) to Chapter 10.5 of Division 17 of, the Food and Agricultural Code, and to amend Section 113735 of the Health and Safety Code, relating to agricultural products.

LEGISLATIVE COUNSEL’S DIGEST

AB 224, Gordon. Agricultural products: direct marketing: community-supported agriculture.

Existing law encourages the Department of Food and Agriculture to assist producers in organizing certified farmers’ markets, field retail stands, farm stands, and other forms of direct marketing by providing technical advice on marketing methods and in complying with the regulations that affect direct marketing programs.

This bill would also encourage the department to assist in organizing community-supported agriculture. The bill would require producers that market whole produce, shell eggs, or processed foods through single-farm or multi-farm community-supported agriculture programs, as defined, to register annually with the department as a California direct marketing producer, and, among other things, to specify whether the producer is part of a single-farm community-supported agriculture program or a multi-farm community-supported agriculture program. The bill would impose specified requirements relating to the labeling and maintenance of consumer boxes and containers that are used in community-supported agriculture programs to deliver farm products, and would require a registered California direct marketing producer to maintain records of the contents and origin of all of the items included in each consumer box or container in accordance with department regulations.

The bill would require a registered California direct marketing producer to pay an annual registration fee of up to \$100, as provided, to be deposited in the Department of Food and Agriculture Fund, which would be used by the department for the administration of the bill’s provisions. The bill would require the Secretary of Food and Agriculture to file an order to adopt, amend, or repeal regulations relating to the fee with the Office of

Administrative Law, and would require the order to be filed with the Secretary of State in accordance with specified provisions.

Existing law, the California Retail Food Code, establishes food safety requirements, and requires food to be obtained from approved sources, as defined. Existing law provides for the enforcement of the California Retail Food Code by enforcement officers, as defined, which includes the State Department of Public Health. Funds collected by the State Department of Public Health pursuant to those provisions are deposited in the Food Safety Fund for use by the State Department of Public Health, upon appropriation by the Legislature, for purposes of carrying out and implementing inspection provisions, as specified.

This bill would specify that a registered California direct marketing producer is an approved source, subject to compliance with specified provisions of law, and would also specify that any whole uncut fruit or vegetable or unrefrigerated shell egg grown or produced in compliance with all applicable federal, state, and local laws, regulations, and food safety guidelines shall be deemed to be from an approved source. The bill would authorize enforcement officers to enter and inspect a community-supported agriculture program in response to a public food safety complaint, and would authorize the enforcement officer to recover reasonable costs associated with that inspection from the registered California direct marketing producer operating the community-supported agriculture program.

Because a violation of various provisions regulating direct marketing, including requirements relating to labeling and shipping products and preparing and submitting specified documents, is a crime, this bill would create new crimes and would therefore 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.

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

SECTION 1. Section 47000 of the Food and Agricultural Code is amended to read:

47000. The Legislature finds and declares all of the following with regard to the direct marketing of agricultural products:

(a) Direct marketing of agricultural products benefits the agricultural community and the consumer by, among other things, providing an alternative method for growers to sell their products while benefiting the consumer by supplying quality produce at reasonable prices.

(b) Direct marketing is a good public relations tool for the agricultural industry that brings the farmer face-to-face with consumers.

(c) The marketing potential of a wide variety of California-produced agricultural products should be maximized.

(d) Farm stands allow farmers to sell fresh produce and eggs grown on their farm as well as other food products made with ingredients produced on or near the farm, thus enhancing their income and the local economy.

(e) The department should maintain a direct marketing program and the industry should continue to encourage the sale of California-grown fresh produce.

(f) It is the intent of the state to promote the consumption of California-grown produce and to promote access to California-produced agricultural products. Restaurants and nonprofit organizations can assist in bringing California-grown products to all Californians.

(g) A regulatory scheme should be developed that provides the flexibility that will make direct marketing a viable marketing system.

(h) The department should assist producers in organizing certified farmers' markets, field retail stands, farm stands, community-supported agriculture, and other forms of direct marketing by providing technical advice on marketing methods and in complying with the regulations that affect direct marketing programs.

(i) The department is encouraged to establish an ad hoc advisory committee to assist the department in establishing regulations

affecting direct marketing of products and to advise the secretary in all matters pertaining to direct marketing.

SEC. 2. Article 6 (commencing with Section 47060) is added to Chapter 10.5 of Division 17 of the Food and Agricultural Code, to read:

Article 6. Community-Supported Agriculture

47060. For purposes of this article, the following definitions apply:

(a) “Community-supported agriculture program” or “CSA program” means a program under which a registered California direct marketing producer, or a group of registered California direct marketing producers, grow food for a group of California consumer shareholders or subscribers who pledge or contract to buy a portion of the future crop, animal production, or both, of a registered California direct marketing producer or a group of registered California direct marketing producers.

(b) “Single-farm community-supported agriculture program” means a program in which all delivered farm products originate from and are produced at the farm of one registered California direct marketing producer, and no more than a de minimus amount of delivered farm products originate at the farms of other registered California direct marketing producers.

(c) “Multi-farm community-supported agriculture program” means a program in which all delivered farm products originate from and are produced at one or more farms of a group of registered California direct marketing producers who declare their association as a group at the time of their annual certification or by amending the annual certification during the year.

(d) “Farm” means a farm operated by a registered California direct marketing producer or a group of registered California direct marketing producers.

47061. (a) A producer that markets whole produce, shell eggs, or processed foods through a single-farm community-supported agriculture program or multi-farm community-supported agriculture program shall comply with all of the following:

(1) Register annually with the department as a California direct marketing producer, which shall include both of the following:

(A) A statement specifying whether the producer is part of a single-farm community supported agriculture program or multi-farm community-supported agriculture program.

(B) (i) A declaration by the producer that he or she is knowledgeable and intends to produce in accordance with good agricultural practices, as outlined in the small farm food safety guidelines published by the department.

(ii) A declaration made pursuant to this subparagraph shall not be used to infer that the producer is not required to comply with any other state or federal laws relative to food safety and good agricultural practices.

(2) Label the consumer box or container used to deliver farm products to the consumer with the name and address of the farm delivering the box or container.

(3) Maintain the consumer boxes or containers in a condition that prevents contamination.

(4) Inform consumers, either by including a printed list in the consumer box or container or by delivering a list electronically to the consumer, of the farm of origin of each item in the consumer box or container.

(5) Maintain records that document the contents and origin of all of the items included in each consumer box or container, in accordance with department regulations.

(6) Comply with all labeling and identification requirements for shell eggs and processed foods imposed pursuant to the provisions of the Health and Safety Code, including, but not limited to, the farm's name, physical address, and telephone number.

(b) A registered California direct marketing producer that is in compliance with this section and in good standing shall be deemed an approved source, as defined in Section 113735 of the Health and Safety Code.

(c) A potentially hazardous food, as defined in Section 113871 of the Health and Safety Code, shall not be included in a consumer box distributed pursuant to this article unless that food has been produced, processed, and handled pursuant to all applicable federal, state, and local food safety requirements.

(d) Poultry and rabbit meat produced pursuant to Part 2 (commencing with Section 25401) of Division 12, and other meats produced pursuant to Chapter 4.1 (commencing with Section 18940) of Part 3 of Division 9, that are marketed under this chapter

shall comply with handling requirements established in the small farm food safety guidelines published by the department, as described in paragraph (2) of subdivision (b) of Section 47062.

(e) An enforcement officer, as defined in Section 113774 of the California Retail Food Code (Part 7 (commencing with Section 113700) of Division 104 the Health and Safety Code) may enter into and inspect a community-supported agriculture program in response to a public food safety complaint. The enforcement officer may recover reasonable costs associated with that inspection from the registered direct marketing producer operating the community-supported agriculture program.

(f) Nothing in this section shall be construed to remove the responsibility of a community-supported agriculture program from obtaining all required permits and licenses, including, but not limited to, a produce handler license or a cottage food permit.

47062. (a) The fee for, or the fee for amendment to, the annual registration of a registered California direct marketing producer shall be set by regulation enacted by the secretary that is reflective of the actual cost of the processing of registration or amendment to the registration, but in no event shall either fee exceed one hundred dollars (\$100) annually.

(b) Fees collected pursuant to this article shall be deposited in the Department of Food and Agriculture Fund and shall be used by the department for the administration of this article. Administration of this article shall include all of the following:

(1) Create and maintain a registration system for California direct marketing producers.

(2) In consultation with the State Department of Public Health and local health officers or designees, publish, periodically update, and post on the Department of Food and Agriculture's Internet Web site small farm food safety guidelines on, but not limited to, safe production, processing, and handling of both nonpotentially hazardous and potentially hazardous foods.

(3) Coordination expenses incurred relative to meetings of any ad hoc direct marketing advisory committee established by the secretary.

(c) All or part of the annual registration fee shall be waived if fees are paid by a California direct marketing producer to the department for registration or certification under any other program under the purview of this chapter.

(d) The provisions of this article shall be complied with regardless of any waiver of fees granted.

(e) The adoption, amendment, or repeal of any fee pursuant to this section shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. An order to adopt, amend, or repeal regulations concerning the fee pursuant to this section shall be transmitted within 30 days by the secretary to the Office of Administrative Law. The Office of Administrative Law shall file the order promptly with the Secretary of State without further review pursuant to Article 6 (commencing with Section 11349) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code. The order shall contain all of the following:

(1) Indicate that the regulations are adopted, amended, or repealed pursuant to this chapter.

(2) State that the order is being transmitted for filing.

(3) Request that the Office of Administrative Law publish a notice of the filing of the order and print an appropriate reference in Title 3 of the California Code of Regulations.

SEC. 3. Section 113735 of the Health and Safety Code is amended to read:

113735. (a) “Approved source” means a food source allowed under Article 3 (commencing with Section 114021) of Chapter 4, or a producer, manufacturer, distributor, or food facility that is acceptable to the enforcement agency based on a determination of conformity with applicable laws, or, in the absence of applicable laws, with current public health principles and practices, and generally recognized industry standards that protect public health.

(b) Any whole uncut fruit or vegetable or unrefrigerated shell egg grown or produced in compliance with all applicable federal, state, or local laws, regulations, and food safety guidelines issued by a regulatory agency shall be deemed to be from an approved source.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within

the meaning of Section 6 of Article XIII B of the California Constitution.

Approved _____, 2013

Governor