

AMENDED IN ASSEMBLY MAY 6, 2013

AMENDED IN ASSEMBLY APRIL 25, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 996**

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**Introduced by Assembly Member Dickinson**

February 22, 2013

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An act to amend Sections 43100, 47000, 47001, 47002, 47010, 47011, and 47021 of, to add Sections 47000.5, ~~47001.5~~, and 47014 to, to add Chapter 9 (commencing with Section 890) to Part 1 of Division 1 of, to add and repeal Section 47021.5 of, to repeal Sections 47004.1 and 47012 of, to repeal Article 2 (commencing with Section 47010) of Chapter 10.5 of Division 17 of, and to repeal and add Sections 47004 and 47020 of, the Food and Agricultural Code, relating to food and agriculture, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 996, as amended, Dickinson. Agricultural products: direct marketing: certified farmers' markets.

(1) Existing law authorizes the use of the term "California grown" and similar terms for marketing, advertising, or promotional purposes only to identify food or agricultural products that have been produced in the state or harvested in its surface or coastal waters, and makes the fraudulent use of the term or a deliberately misleading or unwarranted use of the term a misdemeanor punishable by a fine of not less than \$100 or more than \$3,000, or by imprisonment in the county jail for not more than 6 months, or by both the fine and imprisonment.

This bill would make it unlawful for any person or entity to intentionally make any statement, representation, or assertion relating

to the sale or availability of agricultural products that is false, deceptive, or misleading, as specified, and would make a violation of those provisions a misdemeanor punishable by imprisonment in the county jail not exceeding 6 months, by a fine not exceeding \$2,500, or both the fine and imprisonment. By creating a new crime, the bill would impose a state-mandated local program.

The bill would also authorize the Secretary of Food and Agriculture or a county agricultural commissioner, in lieu of prosecution, to levy a civil penalty, as specified, or take action against a license, permit, registration, or certification issued pursuant to the Food and Agricultural Code. The bill would make those penalties applicable to the fraudulent use of the term “California grown,” as specified above. The bill would require the civil penalties collected by a county agricultural commissioner to be paid to the county treasurer, and would require civil penalties collected by the secretary to be deposited in the Direct Agricultural Marketing Penalty Account, which would be created in the Department of Food and Agriculture Fund, as continuously appropriated funds to be used to conduct investigations and enforcement actions relating to false, deceptive, or misleading statements relating to agricultural products, and for other specified purposes. By establishing a continuously appropriated fund, the bill would make an appropriation.

(2) Existing law regulates the direct marketing of agricultural products, and provides for various findings and declaration in that regard. Existing law authorizes the secretary to adopt regulations relating to the direct marketing of agricultural products, authorizes a county agricultural commissioner to issue a certified farmers’ market certificate, and requires the county agricultural commissioner to inspect certified farmers’ markets within his or her jurisdiction. Existing law authorizes a county agricultural commissioner to charge certification and inspection fees, and provides for the assessment of penalties and fines relating to the certification, inspection, and regulation of certified farmers’ markets. These fees and penalties are deposited in the Department of Food and Agriculture Fund, and are required to be used, upon appropriation by the Legislature, for related administrative and regulatory purposes.

This bill would define the terms “producer” and “agricultural product” for purposes of the provisions relating to direct marketing. The bill would authorize the secretary to contract with any county agricultural commissioner’s office for purposes relating to the direct marketing of agricultural products, and would authorize compensation to be paid under those contracts from funds derived from assessments and fees

collected pursuant to the provisions relating to direct marketing. The bill would authorize a certified farmers' market operator to contract with a county agricultural commissioner's office for verification inspections, as specified.

~~(3) Existing law provides for the issuance of a certified producer's certificate by a county agricultural commission, and authorizes the county agricultural commission to charge a certificate and inspection fee, which is deposited into the Food and Agriculture Fund, as specified.~~

~~This bill would require direct marketing producers to register with the Department of Food and Agriculture and attest compliance with specified practices, and would impose a registration fee, to be set by regulation, but not to exceed \$50 annually, to be deposited in the Department of Food and Agriculture Fund and used by the department for related administrative purposes.~~

~~(4)~~

~~(3) Existing law specifies that certified farmers' markets are locations established in accordance with local ordinances, and requires the governing board of a certified farmers' market with more than one participating certified producer to adopt written rules and procedures pertaining to the operation of the certified farmers' market.~~

This bill would instead provide that certified farmers' markets are California agricultural product point of sale locations that are registered and operated in accordance with specified provisions. The bill would require vendors of agricultural products selling within a certified farmers' market to comply with specified signage and labeling requirements, and would make those representations subject to criminal, civil, and administrative penalties, as specified. By creating a new crime, the bill would impose a state-mandated local program. The bill would repeal provisions authorizing an aggrieved certified producer to submit a request to the department for an advisory opinion, and for the department to issue the advisory opinion, and would repeal provisions requiring the department to provide for an informal hearing process for grievances relating to certified farmers' markets.

~~(5)~~

~~(4) Existing law requires the secretary to establish the Certified Farmers' Market Advisory Committee.~~

This bill would specifically limit the duties of that committee to all matters relating to certified farmers' markets, as specified. The bill would decrease the number of members on the committee from 17 members to 14 members, as specified. The bill would repeal the

provisions relating to the Certified Farmers' Market Advisory Committee on January 1, 2015.

(6)

(5) Existing law requires a certified farmers' market certificate to be obtained from a county agricultural commissioner, and authorizes the county agricultural commissioner to assess a fee for the certificate and for inspections, as specified.

This bill would repeal those provisions and instead would require an operator of a certified farmers' market to annually register with the department, and would require the county agricultural commissioner to issue a certified farmers' market certificate upon registration. The bill would require a California producer to register with the department and obtain a certified producer's certificate. The bill would require a California producer to submit specified information to the department, including, among other things, a list of facilities at which their product was processed, as specified, and would require, until January 1, 2016, each operator of a certified farmers' market to remit to the department an investigation and enforcement fee, as specified. *The bill would require the investigation and enforcement fee to be deposited in the Department of Food and Agriculture Fund as a continuously appropriated fund to be used to pursue and conduct investigations and enforcement actions, as specified. By establishing a continuously appropriated fund, the bill would make an appropriation.*

(7)

(6) Existing law requires, until January 1, 2014, that every operator of a certified farmers' market remit to the department a fee equal to the number of certified producer certificates and other agricultural producers participating on each market day for the entire previous quarter, which shall be used by the department upon appropriation by the Legislature, as specified.

This bill would instead require, until January 1, 2016, a program fee equal to the number of vendors participating and selling goods under the authority and management of the certified farmers' market operator on each market day for the entire previous quarter to be remitted to the department.

(8)

(7) Because the bill would create new crimes, and by imposing new requirements on county agricultural commissioners, the bill would 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 with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

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

1 SECTION 1. Chapter 9 (commencing with Section 890) is  
2 added to Part 1 of Division 1 of the Food and Agricultural Code,  
3 to read:

4

5 CHAPTER 9. INTENTIONALLY FALSE, DECEPTIVE, OR  
6 MISLEADING MARKETING

7

8 890. (a) It is unlawful for any person or entity to intentionally  
9 make any statement, representation, or assertion orally, by public  
10 statement, advertisement, or signage, or by any other means that  
11 relates to the sale or availability of agricultural products that is  
12 false, deceptive, or misleading regarding any of the following:

- 13 (1) The area of production of the agricultural product.
- 14 (2) The identity of the producer of the agricultural product.
- 15 (3) The manner and method of production of the agricultural  
16 product.

17 (b) A violation of the provisions of this section is a misdemeanor  
18 punishable by imprisonment in the county jail not exceeding six  
19 months, or by a fine not exceeding two thousand five hundred  
20 dollars (\$2,500), or by both that imprisonment and fine.

21 891. In lieu of prosecution, the secretary, or a county  
22 agricultural commissioner under the authority of the secretary,  
23 may levy a civil penalty against a person or entity that violates this  
24 section in an amount not less than five hundred *dollars* (\$500);  
25 ~~not~~ *and not* more than five thousand dollars (\$5,000) for each  
26 violation. The amount of the penalty assessed for each violation

1 shall be based upon the scope of the violation, the seriousness of  
2 the deception, and the impact of the penalty on the violator,  
3 including the deterrent effect on future violations. Subdivision (e)  
4 of Section 43003 shall apply to any fine or civil penalty levied  
5 pursuant to this section.

6 892. (a) In addition to, or in lieu of, any action taken against  
7 a person by the secretary or a county agricultural commissioner  
8 ~~under the provisions of~~ *pursuant to* Section 890 or 891, the  
9 secretary or a county agricultural commissioner may modify,  
10 suspend, revoke, or refuse or condition the issuance of a license,  
11 permit, registration, or certification issued under the provisions of  
12 this code.

13 (b) Any action taken pursuant to this section shall be based upon  
14 the scope of the violation, the seriousness of the deception, and  
15 the corrective or deterrent effect on future violations.

16 (c) Any action taken pursuant to this section shall be subject to  
17 the due process and applicable civil remedy provisions of this code  
18 that govern the issuance of the license, permit, registration, or  
19 certification.

20 893. (a) All civil penalties collected pursuant to this chapter  
21 by the secretary shall be deposited in the Direct Agricultural  
22 Marketing Penalty Account, which is hereby created in the  
23 Department of Food and Agriculture Fund, and shall be used to  
24 conduct investigations and enforcement actions upon complaints  
25 filed or pursuant to information received that results in the  
26 investigation of a violation of Section 890. Money deposited  
27 pursuant to this chapter may also be used to contract with county  
28 agricultural commissioners for services that further the purposes  
29 of this chapter, and may be used for expenses incurred by county  
30 agricultural commissioners for investigative and enforcement  
31 actions conducted pursuant to this chapter. Notwithstanding Section  
32 13340 of the Government Code, all money deposited pursuant to  
33 this chapter shall be continuously appropriated to the department  
34 without regard to fiscal year for purposes of this chapter.

35 (b) All civil penalties collected pursuant to enforcement actions  
36 by a county agricultural commissioner under the provisions of this  
37 chapter shall be paid to the county treasurer.

38 894. A proceeding brought by the state or a county for an act  
39 that violates the provisions of Section 890 shall preclude any  
40 concurrent or subsequent proceeding by the state or a county for

1 the same act, or a proceeding brought by a governmental agency  
2 under the provisions of Section 17500 of the Business and  
3 Professions Code for the same act.

4 SEC. 2. Section 43100 of the Food and Agricultural Code is  
5 amended to read:

6 43100. (a) The terms “California grown,” “California-grown,”  
7 and similar terms with identical connotations shall be used in the  
8 labeling or advertising of agricultural products as follows:

9 (1) The terms “California grown,” “California-grown,” and  
10 similar terms with identical connotations may be used for  
11 marketing, advertising, or promotional purposes, only to identify  
12 food or agricultural products that have been produced in the state  
13 or harvested in its surface or coastal waters.

14 (2) The secretary may adopt guidelines, rules, and regulations  
15 to further define acceptable uses of the terms “California grown,”  
16 “California-grown,” and similar terms with identical connotations,  
17 and to prevent any misleading use of the terms.

18 (b) Any intentionally false, deceptive, or misleading use of the  
19 terms “California grown,” “California-grown,” and similar terms  
20 with identical connotations, or of any seals or other identities  
21 officially adopted by the department in connection with these  
22 terms, or a deliberately unwarranted use of these items or terms  
23 shall be subject to the provisions and penalties set forth in Chapter  
24 9 (commencing with Section 890) of Part 1 of Division 1.

25 SEC. 3. Section 47000 of the Food and Agricultural Code is  
26 amended to read:

27 47000. The Legislature finds and declares all of the following  
28 with regard to the direct marketing of agricultural products:

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

34 (b) Direct marketing is a good public relations tool for the  
35 agricultural industry that brings the farmer face-to-face with  
36 consumers and other end users.

37 (c) The direct marketing potential of a wide variety of  
38 California-produced agricultural products should be maximized  
39 and encouraged.

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

5 (e) The permitting, regulating, and operating of certified farmers'  
6 markets provide the essential core and foundation for the creation  
7 and operation of additional nonagricultural vending activities that  
8 are ancillary but contiguous to the certified farmers' market,  
9 thereby providing a larger community event amenity for business  
10 districts and additional revenue for the operators of certified  
11 farmers' markets.

12 (f) The department should maintain a direct marketing program  
13 and encourage the sale and purchase of California-grown fresh  
14 produce and other California-produced agricultural products.

15 (g) It is the intent of the state to promote the purchase and  
16 consumption of California-grown produce and to promote access  
17 to California-produced agricultural products. Restaurants and  
18 nonprofit organizations can ~~provide assistance~~ assist in bringing  
19 California-grown products to all Californians.

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

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

29 (j) The department is encouraged to establish an ad hoc advisory  
30 committee to assist the department in establishing regulations  
31 affecting direct marketing of products and to advise the secretary  
32 in all matters pertaining to direct marketing.

33 SEC. 4. Section 47000.5 is added to the Food and Agricultural  
34 Code, to read:

35 47000.5. The following definitions apply to this chapter, unless  
36 otherwise specified:

37 (a) "Agricultural product" means a fresh or processed product  
38 produced in California, including fruits, nuts, vegetables, herbs,  
39 mushrooms, dairy, shell eggs, honey, flowers, grains, nursery  
40 stock, livestock meats, poultry meats, rabbit meats, and fish,

1 including shellfish that is produced under controlled conditions in  
2 waters located in California. Products that are characterized as  
3 arts, crafts, bakery, candies, soaps, balms, perfumes, cosmetics,  
4 clothing, fabrics, pastas, compost, fertilizers, and types of wares  
5 are not agricultural products for purposes of this chapter.

6 (b) “Practice of the agricultural arts” means the undertaking of  
7 being predominantly responsible for the decisions and actions  
8 encompassing the various phases of producing an agricultural  
9 product. The practice *of the agricultural arts* for fruit, floral, nut,  
10 vegetable, and other plant products includes directive or actual  
11 responsibility for all the actions of planting, growing, fertilizing,  
12 irrigating, cultivating, pest control, and harvesting. The practice  
13 *of the agricultural arts* for agricultural animal products includes  
14 directive or actual responsibility for a substantial time of the  
15 raising, feeding, veterinary care, and product harvesting.

16 (c) “Producer” means a person, partnership, corporation, or an  
17 otherwise legally formed farm or ranch that produces agricultural  
18 products by the practice of the agricultural arts upon land that the  
19 person or entity owns, rents, leases, sharecrops, or otherwise  
20 controls and has the documented legal right to possession. A person  
21 or entity that rents, leases, or otherwise acquires the right to  
22 possession of property essentially only for or limited to the period  
23 of the harvest season of the agricultural products produced on that  
24 property shall not be considered a producer under the provisions  
25 of this chapter.

26 SEC. 5. Section 47001 of the Food and Agricultural Code is  
27 amended to read:

28 47001. (a) The secretary may adopt regulations to encourage  
29 the direct sale by farmers to the public of all types of agricultural  
30 products. Those regulations also shall include the authority of the  
31 secretary to create or recognize any legal mechanism, relationship,  
32 or entity that would allow direct marketing producers to jointly,  
33 in a cooperative, labor-sharing, and cost-sharing manner, sell to  
34 the public the agricultural products produced by them, exempt  
35 from size, standard pack, container, and labeling requirements,  
36 and any applicable provision of Chapter 7 (commencing with  
37 Section 56101) of Division 20.

38 (b) These regulations may include provisions to ensure and  
39 maintain quality and wholesomeness of the products, and to ensure

1 that the selling activities are conducted without fraud, deception,  
2 or misrepresentation.

3 (c) The secretary may contract with any county agricultural  
4 commissioner to carry out the provisions of this chapter, including  
5 contracts for administration, investigations, inspections,  
6 registrations, and assistance pertaining to direct marketing  
7 producers and outlets. The secretary may enact regulations to  
8 categorize the contracts and set compensation, fees, and rates for  
9 each contract. Compensation under the contracts shall be paid from  
10 assessments and fees collected and deposited ~~under~~ pursuant to  
11 the provisions of this chapter.

12 (d) A certified farmers' market operator may contract with a  
13 county agricultural commissioner for a special onsite field or  
14 storage verification inspection of a direct marketing producer  
15 selling in a certified farmers' market operated and controlled by  
16 the operator. A contract for a verification inspection shall be  
17 authorized only pursuant to a reasonable suspicion of a violation  
18 of this chapter. All contracts and contract fees are subject to the  
19 discretion of the county agricultural commissioner in the county  
20 where the verification inspections are being requested.

21 ~~SEC. 6. Section 47001.5 is added to the Food and Agricultural~~  
22 ~~Code, to read:~~

23 ~~47001.5. (a) A producer, not otherwise registered or certified~~  
24 ~~pursuant to the provisions of this chapter, intending to sell directly~~  
25 ~~to the California public shall annually register with the department~~  
26 ~~as a direct marketing producer. Registration shall include the direct~~  
27 ~~marketing producer's contact information, a general list of~~  
28 ~~agricultural products the direct marketing producer intends to direct~~  
29 ~~market, and the categories of direct marketing methods the direct~~  
30 ~~marketing producer intends to use. The registration also shall~~  
31 ~~include the methods and outlets to be used that are recognized and~~  
32 ~~regulated by this chapter.~~

33 ~~(b) Each registration shall include the signed statement that the~~  
34 ~~producer is in compliance with any applicable on-farm, food-safety,~~  
35 ~~good-agricultural practices, as defined by the department, in~~  
36 ~~cooperation with the direct marketing producer industry. A~~  
37 ~~producer registered, certified, and in compliance with this section~~  
38 ~~shall be deemed an approved source, as defined in Section 113735~~  
39 ~~of the Health and Safety Code.~~

1 ~~(e) The annual registration fee for a direct marketing producer~~  
2 ~~shall be set by regulation, as enacted by the secretary, that is~~  
3 ~~reflective of the actual cost of the processing of the registration~~  
4 ~~and shall not exceed fifty dollars (\$50) annually. Fees collected~~  
5 ~~shall be deposited in the Department of Food and Agriculture Fund~~  
6 ~~and shall be used by the department for the administration of this~~  
7 ~~section. Administration shall include creating and maintaining an~~  
8 ~~online process and producer data filing system for registration;~~  
9 ~~any reimbursement for expenses incurred by county agricultural~~  
10 ~~commissioners for implementing or aiding in the registration~~  
11 ~~process, or any coordination expenses incurred relative to meetings~~  
12 ~~and actions of any ad hoc direct marketing advisory committee~~  
13 ~~established by the secretary.~~

14 ~~(d) The annual fee shall be waived when the direct marketing~~  
15 ~~producer registration is combined with other annual registration~~  
16 ~~or certification processes, pursuant to this division, where a fee is~~  
17 ~~exacted from the producer for registration or processing. The~~  
18 ~~registration provisions of this section shall be complied with~~  
19 ~~regardless of any waiver of fees granted.~~

20 ~~SEC. 7.~~

21 ~~SEC. 6.~~ Section 47002 of the Food and Agricultural Code is  
22 amended to read:

23 47002. California farmers registered or certified pursuant to  
24 this chapter as direct marketing producers ~~in accordance with~~  
25 ~~Section 47001.5~~ may transport for sale and sell California-grown  
26 fresh fruits, nuts, and vegetables that they produce directly to the  
27 public, and shall be exempt from size, standard pack, container,  
28 and labeling requirements at an outlet or location operated by an  
29 individual, organization, or entity that is regulated ~~under~~ *pursuant*  
30 *to* this chapter or is recognized by a regulation adopted pursuant  
31 to Section 47001 and is otherwise authorized by local laws, subject  
32 to the following conditions:

33 (a) All fresh fruits, nuts, and vegetables sold shall comply with  
34 the California Code of Regulations governing maturity and quality.

35 (b) No exemption granted by this section supersedes the  
36 provisions of federal marketing orders, state marketing orders, or  
37 any health and safety laws, regulations, or ordinances.

38 (c) All fresh fruits, nuts, and vegetables sold in closed consumer  
39 containers shall be labeled with the name, address, and ZIP Code

1 of the producer, and a declaration of identity and net quantity of  
2 the commodity in the package.

3 (d) If a farmer selling produce pursuant to this section  
4 implements any exemption to size, standard pack, container, or  
5 labeling requirements as provided by this section, those sales may  
6 only be conducted as direct sales to any of the following:

7 (1) Consumers who are end users.

8 (2) Individuals, organizations, or entities that subsequently sell  
9 the produce directly to end users.

10 (3) Individuals, organizations, or entities that distribute the  
11 produce directly to end users at no cost to those end users.

12 (e) A farmer selling produce pursuant to paragraph (2) or (3)  
13 of subdivision (d) shall provide the individual, organization, or  
14 entity a memorandum that lists the identity of the producer, the  
15 address of the producer, and the identity and quantity of the  
16 produce purchased. A bill of sale or a container label including  
17 this information shall meet the requirements of this subdivision.

18 ~~SEC. 8.~~

19 *SEC. 7.* Section 47004 of the Food and Agricultural Code is  
20 repealed.

21 ~~SEC. 9.~~

22 *SEC. 8.* Section 47004 is added to the Food and Agricultural  
23 Code, to read:

24 47004. (a) Certified farmers' markets are California  
25 agricultural product point of sale locations that are registered under  
26 the provisions of Section 47020 and operated in accordance with  
27 this chapter and regulations adopted pursuant to this chapter.

28 (b) The operator of a certified farmers' market shall establish  
29 a clearly defined marketing area where only agricultural products  
30 may be sold. Only the producer or the lawful authorized  
31 representative of the producer may sell agricultural products within  
32 the area defined as a certified farmers' market. Sales of agricultural  
33 products purchased from another individual or entity shall not  
34 occur within a certified farmers' market, and an agricultural product  
35 producer or product dealer shall not sell his or her agricultural  
36 products to another individual or entity with the understanding or  
37 knowledge that the products are intended to be resold in a certified  
38 farmers' market in violation of the provisions of this chapter or  
39 the regulations adopted pursuant thereto. Every producer selling  
40 within a certified farmers' market shall comply with Section 47020.

1 (c) All vendors of agricultural products selling within a certified  
2 farmers' market shall do all of the following:

3 (1) Post conspicuous signs or banners that state the name of the  
4 farm or ranch, the city where the farm or ranch is located, and the  
5 county where the farm or ranch is located.

6 (2) Post conspicuous signs or banners that state, "We Grew  
7 What We Are Selling" or "We Raised What We Are Selling" or  
8 "We Grow What We Sell" or similar phrases that shall represent  
9 that the farm or ranch is only selling agricultural products that they  
10 themselves have grown or raised on California land that they  
11 possess or control.

12 (3) Ensure that all processed agricultural products that they offer  
13 for sale state in a clear manner by package label or container label  
14 or bulk sales signage that they consist only, with the exception of  
15 incidental flavorings and necessary preservatives, of agricultural  
16 products grown or raised by the farm or ranch selling them, and  
17 the farm or ranch name and the city where the farm or ranch is  
18 located. In addition, every processed product shall identify on a  
19 package label or container label or on bulk sales signage the  
20 registration number or other identity reference of the facility where  
21 the food was processed, or any other required labeling statements  
22 or information, in accordance with Sections 110460, 114365, and  
23 114365.2 of the Health and Safety Code or, in the case of meat  
24 products, the identity of the facility where the meat products were  
25 cut and wrapped in accordance with the United States Department  
26 of Agriculture or State of California inspection standards or, in  
27 the case of dairy products, the identity of the facility where the  
28 dairy products were manufactured or processed.

29 (4) Ensure all products being represented or offered for sale as  
30 organic are clearly labeled or have conspicuous and posted  
31 point-of-sale signage identifying the products as organic.

32 (d) The representations required pursuant to subdivision (c)  
33 shall be subject to the provisions and penalties specified in Section  
34 890.

35 (e) An operator of a certified farmers' market that also operates,  
36 manages, or otherwise controls a separate sales activity or vending  
37 event or marketing area in close proximity, adjacent, or contiguous  
38 to the operator's certified farmers' market, shall not allow the sale  
39 or distribution of fresh whole produce by vendors selling within  
40 those sales activity or vending event or marketing areas .

1 (f) The operator of a certified farmers' market shall keep an  
2 accurate participation record of the individual direct marketing  
3 producers whose agricultural products were presented for sale in  
4 their market each market day. The operators shall submit to the  
5 department a quarterly report of the registration numbers and  
6 participation frequency of the direct marketing producers whose  
7 agricultural products were presented for sale in the operator's  
8 market during that past quarter. The department shall create and  
9 maintain online capability for reporting.

10 (g) Operators of certified farmers' markets may establish rules  
11 and procedures that are more restrictive and stringent than state  
12 laws or regulations governing or implementing this chapter, so  
13 long as the rules and procedures are not in conflict with state laws  
14 or regulations.

15 (h) Except for certified farmers' markets operated by  
16 government agencies, nonprofit entities and other qualified  
17 operators of certified farmers' markets shall be considered private  
18 entities and may take actions, adopt rules, and impose requirements  
19 they deem necessary for the proper and honest operation of their  
20 market, subject to the application of any state or other laws.  
21 Government agency operators of certified farmers' markets are  
22 subject to applicable state laws, the laws of the governing agency,  
23 and any other laws governing the conduct and actions they may  
24 take as a governmental entity.

25 ~~SEC. 10.~~

26 *SEC. 9.* Section 47004.1 of the Food and Agricultural Code is  
27 repealed.

28 ~~SEC. 11.~~

29 *SEC. 10.* Section 47010 of the Food and Agricultural Code is  
30 amended to read:

31 47010. (a) The secretary shall establish a committee that shall  
32 be known as the Certified Farmers' Market Advisory Committee.  
33 The primary goals of the committee shall be all of the following:

34 (1) Promote the demand and consumption of agricultural  
35 products purchased directly from California producers at certified  
36 farmers' markets.

37 (2) Ensure that existing and future certified farmers' markets  
38 are primarily maintained for the benefit of the California producers  
39 selling their products within those markets.

1 (3) Ensure that honest and fair marketing of products occur  
2 within certified farmers' markets and within any ancillary vending  
3 activities under the operation and control of a certified farmers'  
4 market operator.

5 (b) The committee shall be composed of 14 members and their  
6 alternates. The secretary shall endeavor to appoint six members  
7 and their alternates who shall be producers or representatives of  
8 agricultural organizations that represent producers, six members  
9 and their alternates who shall be certified farmers' market operators  
10 or representatives of the operator, one public member, and one  
11 member and his or her alternate who shall be a county agricultural  
12 commissioner. An alternate member shall serve at a committee  
13 meeting only in the absence of, and shall have the same powers  
14 and duties as, the member for whom he or she is designated as  
15 alternate. All appointees shall serve two-year terms or at the  
16 pleasure of the secretary. Members appointed to fill vacancies shall  
17 serve the remainder of the term.

18 (c) The secretary shall make an effort to include members who  
19 represent a diverse state geographical and agricultural product.

20 (d) The committee shall meet at the request of the secretary and  
21 the committee chairperson, or upon the request of eight committee  
22 members. It shall meet at least once each year.

23 (e) The committee may appoint its own officers, including a  
24 chairperson, a vice chairperson, a secretary, and any other officers  
25 it deems necessary. The committee may adopt rules that it deems  
26 are necessary for the conduct of its meetings and functions to carry  
27 out the objectives of this chapter.

28 ~~SEC. 12.~~

29 *SEC. 11.* Section 47011 of the Food and Agricultural Code is  
30 amended to read:

31 47011. The Certified Farmers' Market Advisory Committee  
32 shall be advisory to the secretary on matters pertaining to direct  
33 marketing of agricultural products at certified farmers' markets  
34 and may make recommendations including, but not limited to, the  
35 following:

36 (a) The amendment, repeal, or adoption of legislation and  
37 regulations that relate to the primary goals stated in subdivision  
38 (a) of Section 47010.

1 (b) Administrative policies and procedures that relate to the  
2 primary goals stated in subdivision (a) of Section 47010, including  
3 the inspection of certified producers and certified farmers' markets.

4 (c) Administrative civil penalties for violations of certified  
5 farmers' market laws and regulations.

6 (d) Program and enforcement fees collected pursuant to Sections  
7 47021 and 47021.5.

8 (e) Statewide review of certified farmers' market promotion  
9 and enforcement actions.

10 (f) The annual budget of the department's certified farmers'  
11 market program to carry out the goals and purposes of this chapter.

12 (g) Alternative strategies for certification and investigation  
13 methodology, and methods for industry self-regulation and  
14 committee formation.

15 ~~SEC. 13.~~

16 *SEC. 12.* Section 47012 of the Food and Agricultural Code is  
17 repealed.

18 ~~SEC. 14.~~

19 *SEC. 13.* Section 47014 is added to the Food and Agricultural  
20 Code, to read:

21 47014. This article shall remain in effect only until January 1,  
22 2015, and as of that date is repealed, unless a later enacted statute,  
23 that is enacted before January 1, 2015, deletes or extends that date.

24 ~~SEC. 15.~~

25 *SEC. 14.* Section 47020 of the Food and Agricultural Code is  
26 repealed.

27 ~~SEC. 16.~~

28 *SEC. 15.* Section 47020 is added to the Food and Agricultural  
29 Code, to read:

30 47020. (a) An operator of a certified farmers' market shall  
31 annually register with the department the times and location of the  
32 market, the name and contact information for the operator of the  
33 market, and the agent for service of process for the operator. Upon  
34 completion of a proper application, the agricultural commissioner  
35 shall issue to the operator a certified farmers' market certificate.

36 (b) A certified farmers' market certificate issued by a county  
37 agricultural commissioner shall be valid for 12 months from the  
38 date of issue and may be renewed annually thereafter. The county  
39 agricultural commissioner shall inspect every certified farmers'  
40 market within his or her jurisdiction at least once for every six

1 months of operation. The county agricultural commissioner shall  
2 provide an estimate of expenses for inspections at the time of  
3 application or renewal and may charge a certification and  
4 inspection fee reflecting or equal to the actual expenses incurred.

5 (c) (1) Any California producer wishing to sell at a certified  
6 farmers' market shall apply and register with the department and  
7 obtain a certified producer's certificate. Each registration shall  
8 include the signed statement that the producer is in compliance  
9 with any applicable on-farm, food safety, good agricultural  
10 practices, as defined by the department, in cooperation with the  
11 direct marketing producer industry. All certified producer  
12 certificates will be assigned one or more permanent registration  
13 numbers representing the farm or ranch for each county where the  
14 farm or ranch is located. A producer registered, certified, and in  
15 compliance with this section shall be deemed an approved source,  
16 as defined in Section 113735 of the Health and Safety Code.

17 (2) In addition to business contact information for the producer,  
18 the certificate shall also include the Global Positioning System  
19 (GPS) convertible physical addresses and acreage for the locations  
20 in each county where they produce or raise the agricultural product  
21 they sell or intend to sell directly to the public, and the  
22 GPS-convertible physical addresses of any off-farm locations  
23 where the products are or will be stored before they are sold  
24 directly to the public.

25 (3) Each certified producer farming fruit, vegetables, nuts, herbs,  
26 and similar crops shall annually submit to the department pertinent  
27 information about the specific crops that they will harvest or intend  
28 to harvest for sales directly to the public.

29 (4) Each certified producer that sells or intends to sell any  
30 processed agricultural product that they produced directly to the  
31 public shall submit to the department a list of each facility where  
32 their production was canned, dried, flavored, preserved, fermented,  
33 juiced, or otherwise processed into the product that they intend to  
34 sell to the public, and the registration number or other pertinent  
35 information of each facility where the food was processed in  
36 accordance with Sections 110460, 114365, and 114365.2 of the  
37 Health and Safety Code.

38 (5) Each certified producer that raises animals for meat, cheese,  
39 eggs, honey, or similar products for sale directly to the public shall  
40 annually submit to the department pertinent general information

1 about the products produced for sale directly to the public. In the  
2 case of meat products, the producer shall also list the facilities  
3 where their products will be slaughtered, cut, and wrapped in  
4 accordance with United States Department of Agriculture or State  
5 of California inspection standards in preparation for sale to the  
6 public. In the case of any dairy product, the producer shall also  
7 list the facilities where their product is manufactured and processed.

8 (6) All certified producers shall keep general records of  
9 agricultural product sales directly to the end users and  
10 memorandum records of product sales to parties intending to resell  
11 or distribute the product to the public or end users under the  
12 provisions of Section 47002.

13 (7) A certified producer's certificate issued by a county  
14 agricultural commissioner shall be valid for up to 12 months from  
15 the date of issue and may be renewed annually thereafter. The  
16 county agricultural commissioner in each county shall perform at  
17 least one onsite inspection for all new certified producer certificate  
18 applicants and may perform additional inspections as needed of  
19 the property or properties listed on the certified producer's  
20 certificate issued in his or her county to verify production of the  
21 commodities being sold at a certified farmers' market or the  
22 existence in storage of the producer's actual harvested production,  
23 or both, of any product being sold at a certified farmers' market.  
24 Where practical or purposeful, verification inspections ~~should~~ *shall*  
25 be made when the actual harvest or sale of the commodity in  
26 question is occurring. The county agricultural commissioner shall  
27 furnish the producer an estimate of expenses for certification or  
28 inspection at the time of application or renewal or before any  
29 needed additional verification inspection, and may charge a  
30 certification and inspection fee reflecting or equal to the actual  
31 expenses incurred.

32 (d) Renewal of a certified farmers' market certificate or certified  
33 producer's certificate may be denied by either the department or  
34 a county agricultural commissioner if a certified farmers' market  
35 or a certified producer is delinquent in the payment of the required  
36 state fee or any county certification and inspection fee or  
37 administrative civil penalty authorized pursuant to this chapter.  
38 The certificate shall be eligible for renewal when all outstanding  
39 balances and associated penalties or administrative fines have been  
40 paid to the department or the respective county or counties.

1     ~~SEC. 17.~~

2     *SEC. 16.* Section 47021 of the Food and Agricultural Code is  
3 amended to read:

4     47021. (a) Every operator of a certified farmers' market shall  
5 remit to the department, within 30 days after the end of each  
6 quarter, a program fee equal to the number of vendors participating  
7 and selling goods under the authority and management of the  
8 certified farmers' market operator on each market day for the entire  
9 previous quarter. The fee shall be fifty cents (\$0.50) for each  
10 vendor whose products were presented for sale on each market  
11 day. A certified farmers' market operator may directly recover all  
12 or part of the fee from the participating vendors.

13     (b) Any operator of a certified farmers' market who fails to pay  
14 the required fee within 30 days after the end of the quarter in which  
15 it is due shall pay to the department a monthly interest charge on  
16 the unpaid balance and a late penalty charge, to be determined by  
17 the department and not to exceed the maximum amount permitted  
18 by law.

19     (c) All fees collected pursuant to this section shall be deposited  
20 in the Department of Food and Agriculture Fund. The money  
21 generated by the imposition of the fees shall be used, upon  
22 appropriation by the Legislature, by the department, to cover the  
23 reasonable costs to carry out this chapter, including all of the  
24 following actions undertaken by the department:

25     (1) The coordination of the Certified Farmers' Market Advisory  
26 Committee or any ad hoc direct marketing advisory committee.

27     (2) The evaluation of county enforcement actions and assistance  
28 with regard to multiple county enforcement problems.

29     (3) The adoption of regulations to carry out the provisions of  
30 this chapter pertaining to certified farmers' markets.

31     (4) Hearings from actions taken to enforce this chapter.

32     (5) The maintenance of a current statewide listing of certified  
33 farmers' markets locations.

34     (6) The maintenance of a current statewide listing of certified  
35 producers.

36     (7) The dissemination to all certified farmers' markets  
37 information regarding the suspension or revocation of any  
38 producer's certificate and the imposition of administrative  
39 penalties.

1 (8) Other actions, including the maintenance of special fund  
2 reserves, that are recommended by the Certified Farmers' Market  
3 Advisory Committee or an ad hoc direct marketing advisory  
4 committee and approved by the department for the purposes of  
5 carrying out the provisions of this chapter pertaining to certified  
6 farmers' markets.

7 (d) This section shall remain in effect only until January 1, 2016,  
8 and as of that date is repealed, unless a later enacted statute, that  
9 is enacted before January 1, 2016, deletes or extends that date.

10 (e) If this section is no longer in effect, any residual funds  
11 collected and deposited pursuant to subdivision (c) shall be  
12 transferred within the Department of Food and Agriculture Fund  
13 and shall be used in accordance with the provisions of subdivision  
14 (c).

15 ~~SEC. 18.~~

16 *SEC. 17.* Section 47021.5 is added to the Food and Agricultural  
17 Code, to read:

18 47021.5. (a) Every operator of a certified farmers' market shall  
19 remit to the department, within 30 days after the end of each  
20 quarter, an investigation and enforcement fee equal to the number  
21 of vendors participating and selling goods under the authority and  
22 management of the certified farmers' market operator on each  
23 market day for the entire previous quarter. The fee shall be one  
24 dollar (\$1) for each vendor whose products were presented for sale  
25 on each market day except as provided for in subdivision (b).

26 (b) For certified farmers' market operators located in counties  
27 that in the previous year issued less than five certified farmers'  
28 market certificates, or for operators of a certified farmers' market  
29 where only the sale of agricultural products that were produced  
30 within the same county as the location of that certified farmers'  
31 market occurred during the previous quarter, the fee shall be fifty  
32 cents (\$0.50) for each vendor whose products were presented for  
33 sale at that market on each market day.

34 (c) ~~All~~ *Notwithstanding Section 13340 of the Government Code,*  
35 *all* fees collected pursuant to this section shall be deposited in the  
36 Department of Food and Agriculture Fund *and shall be*  
37 *continuously appropriated to the department without regard to*  
38 *fiscal year. The money moneys* generated by the imposition of the  
39 fees assessed ~~under~~ *pursuant to* this section shall be used  
40 exclusively to pursue and conduct investigations and enforcement

1 actions upon properly filed complaints or pursuant to information  
2 received or detected creating the necessity for the investigation of  
3 any violation of Section 890 and for any contractual or  
4 reimbursement expenses incurred by a county agricultural  
5 commissioner for investigating the initial or subsequent verification  
6 inspections required by this chapter and not otherwise adequately  
7 funded pursuant to Section 47020.

8 (d) (1) This section shall remain in effect only until January 1,  
9 2016, and as of that date is repealed, unless a later enacted statute,  
10 that is enacted before January 1, 2016, deletes or extends that date.

11 (2) If this section is no longer in effect or is repealed or is not  
12 extended by a later enacted statute that is enacted before January  
13 1, 2016, pursuant to paragraph (1), any residual funds collected  
14 and deposited pursuant to subdivision (d) above shall be transferred  
15 within the Department of Food and Agriculture Fund and used in  
16 accordance with the provisions of subdivision (c) of Section 47021.

17 ~~SEC. 19.~~

18 *SEC. 18.* No reimbursement is required by this act pursuant to  
19 Section 6 of Article XIII B of the California Constitution for certain  
20 costs that may be incurred by a local agency or school district  
21 because, in that regard, this act creates a new crime or infraction,  
22 eliminates a crime or infraction, or changes the penalty for a crime  
23 or infraction, within the meaning of Section 17556 of the  
24 Government Code, or changes the definition of a crime within the  
25 meaning of Section 6 of Article XIII B of the California  
26 Constitution.

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