

Assembly Bill No. 1132

CHAPTER 622

An act to amend Sections 14323, 14325, 14903, 15053, and 15061 of the Food and Agricultural Code, relating to agriculture, and making an appropriation therefor.

[Approved by Governor October 7, 2013. Filed with
Secretary of State October 7, 2013.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1132, Eggman. Agriculture: livestock drugs and commercial feed.

Existing law regulates the sale of livestock drugs by the Secretary of Food and Agriculture, and prohibits a person from selling a restricted drug at retail unless he or she holds a license. Existing law authorizes a person to file an application for a license with the secretary and requires that the application be accompanied by an application fee of \$25. Existing law establishes a license renewal fee of \$25 per year, and provides for an additional penalty of \$10 if the fee is not paid by the required date. The funds collected are deposited into the Department of Food and Agriculture Fund, and are continuously appropriated for purposes of the provisions regulating livestock drugs.

This bill would increase the amount of the application fee, the renewal fee, and the penalty fee to \$50. By increasing the fees deposited into a continuously appropriated fund, the bill would make an appropriation.

Existing law requires the secretary to establish, by regulation, good manufacturing practices as are necessary to carry out the purposes of the provisions regulating commercial feed.

This bill would also require the secretary to establish regulations for hazard analysis and preventive control measures as are necessary to carry out those provisions.

Existing law requires that a license be obtained from the secretary for each location where commercial feed is manufactured, distributed, sold, or stored for later sale. Existing law requires each license application to be accompanied by an annual fee specified by the Department of Food and Agriculture for each location of at least \$100, but not exceeding \$600, with the specific fee to be set by the secretary upon recommendation of the Feed Inspection Advisory Board. Beginning on January 1, 2015, the license fee is required to be \$100 for each location. The funds collected are deposited into the Department of Food and Agriculture Fund and are continuously appropriated for purposes relating to the manufacture and distribution of commercial feed.

This bill would extend the date on which the new fee requirement of \$100 for each location would take effect from January 1, 2015, to January 1,

2020. By extending the time during which a higher license fee may be applied, the bill would increase the fees that are deposited into a continuously appropriated fund, thereby making an appropriation.

Existing law establishes an inspection tonnage tax for commercial feed, as specified, with a maximum rate of \$0.15 per ton. The funds collected are deposited into the Department of Food and Agriculture Fund, and are continuously appropriated for purposes of the provisions regulating commercial feed. Existing law, until January 1, 2015, authorizes the secretary to designate a specified amount of the tonnage taxes collected to provide funding for research and education regarding the safe manufacture, distribution, and use of commercial feed.

This bill would extend the secretary's authority to designate a specified amount of the tonnage taxes collected for those purposes from January 1, 2015, to January 1, 2020. This would constitute a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of $\frac{2}{3}$ of the membership of each house of the Legislature. By extending the purposes for which funds in a continuously appropriated fund may be spent, the bill would make an appropriation.

Appropriation: yes.

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

SECTION 1. Section 14323 of the Food and Agricultural Code is amended to read:

14323. The application shall be accompanied by an application fee of fifty dollars (\$50). The fee is not refundable if the license is refused.

SEC. 2. Section 14325 of the Food and Agricultural Code is amended to read:

14325. The fee for the renewal application for a license is fifty dollars (\$50) per year, payable on or before January 31 of each year. If the fee is not paid by that date, a penalty of fifty dollars (\$50) shall be added to the fee.

SEC. 3. Section 14903 of the Food and Agricultural Code is amended to read:

14903. The secretary shall establish, by regulation, good manufacturing practices, hazard analysis, and preventive control measures as the secretary determines are reasonably necessary to carry out the purposes of this chapter. The good manufacturing practices, hazard analysis, and preventive control measures, including verification and validation activities for all commercial feed and additives, including medicated feed premixes and medicated feeds, shall be based upon federal food and drug laws and regulations, unless the secretary determines that the federal laws and regulations are not appropriate to the conditions that exist in this state. The regulations adopted pursuant to this section shall ensure that drug usage under this chapter shall not conflict with the provisions of Chapter 4 (commencing with Section 14200).

SEC. 4. Section 15053 of the Food and Agricultural Code is amended to read:

15053. (a) Each application for a license shall be accompanied by an annual fee specified by the department for each location. Beginning on January 1, 2007, the minimum license fee shall be one hundred dollars (\$100) for each location and the maximum license fee for each location shall not exceed six hundred dollars (\$600) for each location with the specific fee to be set by the secretary upon recommendation of the Feed Inspection Advisory Board. Those licensees with feed licenses on the effective date of the bill who have previously paid their license fees for the then current fiscal year shall not be subject to any new fees until their licenses are renewed. Beginning January 1, 2020, the license fee shall be one hundred dollars (\$100) for each location. Those licensees with feed licenses on that date who have previously paid their license fees for the then current fiscal year shall not be subject to any new license fees until their licenses are renewed.

(b) Revenues generated from license fees shall be used to replenish feed inspection program reserves to a minimum of 25 percent of program expenditures, after which point some of the revenues from these fees shall be used to reduce feed tonnage taxes provided for in this chapter upon recommendation of the Feed Inspection Advisory Board.

SEC. 5. Section 15061 of the Food and Agricultural Code, as amended by Section 74 of Chapter 328 of the Statutes of 2010, is amended to read:

15061. (a) An inspection tonnage tax at the maximum rate of fifteen cents (\$0.15) per ton of commercial feed sold, except whole grains, and whole hays when unmixed, shall be paid to the secretary by any person who distributes commercial feed to a consumer-buyer in this state. The distributor shall also pay an inspection tonnage tax for purchased commercial feed fed to his or her own animals.

(b) The secretary may, based upon a finding and recommendation of the Feed Inspection Advisory Board, determine the specific rate necessary to provide the revenue needed to carry out the provisions of this chapter. The secretary and the Feed Inspection Advisory Board shall not exceed the maximum tonnage rate established by this section. Setting the tonnage tax rate shall not be subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) The secretary may, based upon a finding and recommendation of the Feed Inspection Advisory Board, designate 15 percent of the tonnage taxes collected, or two hundred thousand dollars (\$200,000), whichever amount is greater, to provide funding for research and education regarding the safe manufacture, distribution, and use of commercial feed. These funds may only be spent on activities approved by the Feed Inspection Advisory Board, with approval being made before any expenditure.

(d) This section shall remain in effect only until January 1, 2020, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2020, deletes or extends that date.

SEC. 6. Section 15061 of the Food and Agricultural Code, as amended by Section 3 of Chapter 245 of the Statutes of 2009, is amended to read:

15061. (a) An inspection tonnage tax at the maximum rate of fifteen cents (\$.15) per ton of commercial feed sold, except whole grains, and whole hays when unmixed, shall be paid to the secretary by any person who distributes commercial feed to a consumer-buyer in this state. The distributor shall also pay an inspection tonnage tax for purchased commercial feed fed to his or her own animals.

(b) The secretary may, based upon a finding and recommendation of the Feed Inspection Advisory Board, determine the specific rate necessary to provide the revenue needed to carry out the provisions of this chapter. The secretary and the Feed Inspection Advisory Board shall not exceed the maximum tonnage rate established by this section. Setting the tonnage tax rate shall not be subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(c) This section shall become operative on January 1, 2020.