

AMENDED IN SENATE SEPTEMBER 6, 2013

AMENDED IN SENATE AUGUST 13, 2013

AMENDED IN SENATE JUNE 25, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1177**

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**Introduced by Assembly Member Bocanegra**

February 22, 2013

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An act to amend Sections 8698, 8698.1, 8698.3, and 8698.6 of, *and to add Section 8698.4 to*, the Business and Professions Code, *and to add Section 15204.6 to the Food and Agricultural Code*, relating to structural fumigation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1177, as amended, Bocanegra. Structural fumigation.

Existing law, until January 1, 2014, establishes a structural fumigation enforcement program that requires the Director of the Department of Pesticide Regulation to provide oversight for the program. Existing law authorizes the Los Angeles County Agricultural Commissioner, the Orange County Agricultural Commissioner, the Santa Clara County Agricultural Commissioner, and the San Diego County Agricultural Commissioner to perform increased structural fumigation, inspection, and enforcement activities, to be funded by a \$5 fee paid by any person who performs a structural fumigation in those counties, as specified. *Existing law requires that the fees be accompanied by a copy of a monthly pesticide use report, as specified.* Existing law, until January 1, 2014, law authorizes the director to adopt regulations to carry out those provisions, and to levy a civil penalty against persons violating those provisions or regulations, as specified. Existing law provides that

the funds collected from the fees shall be paid to the county and used for the sole purpose of funding enforcement and training activities directly related to the structural fumigation program.

This bill would increase the fee described above from \$5 to \$8, and would *revise the reporting requirements, as specified. The bill would extend the operation of these provisions until January 1, 2018.*

*Existing law requires specified structural pest control licensees to annually register with the agricultural commissioner of a county prior to operating a structural pest control business in that county.*

*This bill would authorize a county agricultural commissioner to require full payment of any delinquent fees due to that county pursuant to the enforcement program described above as a condition to registering a structural pest control licensee to operate a structural pest control business in that county.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

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

1 SECTION 1. Section 8698 of the Business and Professions  
2 Code is amended to read:

3 8698. The Director of the Department of Pesticide Regulation  
4 shall provide oversight for the purposes of carrying out Section  
5 8698.1. The Los Angeles County Agricultural Commissioner, the  
6 Orange County Agricultural Commissioner, the Santa Clara County  
7 Agricultural Commissioner, and the San Diego County Agricultural  
8 Commissioner may perform increased structural fumigation,  
9 inspection, and enforcement activities, to be funded by the  
10 eight-dollar (\$8) fee collected pursuant to Section 8698.1.

11 SEC. 2. Section 8698.1 of the Business and Professions Code  
12 is amended to read:

13 8698.1. (a) ~~Any person who~~ *company that* performs a structural  
14 fumigation in Los Angeles County, Orange County, Santa Clara  
15 County, or San Diego County shall pay to the county agricultural  
16 commissioner a fee of eight dollars (\$8) for each ~~treatment~~  
17 *fumigation* conducted at a specific ~~building or structure~~ *location*.

18 (b) The fees shall be submitted by the 10th day of the month  
19 following the month in which the ~~treatment~~ *structural fumigation*  
20 was performed. The fees shall be accompanied by ~~a copy of a~~  
21 ~~monthly pesticide use report~~ showing the addresses, including the

1 ~~department number if applicable, of all structural fumigations. The~~  
2 ~~report shall be in a form required by the director, shall identify the~~  
3 ~~name and address of the person or company performing the~~  
4 ~~fumigation, and shall include any other information requested by~~  
5 ~~the director~~ *report that lists the addresses of all locations in that*  
6 *county at which a structural fumigation was performed during the*  
7 *prior month.*

8 *SEC. 3. Section 8698.3 of the Business and Professions Code*  
9 *is amended to read:*

10 8698.3. (a) The Director of the Department of Pesticide  
11 Regulation may levy a civil penalty against a person *or company*  
12 violating this chapter, including any regulation adopted pursuant  
13 to this chapter.

14 (b) Before a civil penalty is levied, the person charged with the  
15 violation shall receive notice of the nature of the violation and  
16 shall be given an opportunity to be heard, including the right to  
17 review the director's evidence and a right to present evidence on  
18 his or her own behalf.

19 (c) Review of the decision of the director may be sought by the  
20 person against whom the penalty was levied, within 30 days of  
21 receiving notice of the decision, pursuant to Section 1094.5 of the  
22 Code of Civil Procedure.

23 (d) After the exhaustion of the review procedure provided in  
24 this section, the director, or his or her representative, may file a  
25 certified copy of a final decision of the director that directs the  
26 payment of a civil penalty and, if applicable, any order that denies  
27 a petition for a writ of administrative mandamus, with the clerk  
28 of the superior court of any county. Judgment shall be entered  
29 immediately by the clerk in conformity with the decision or order.  
30 No fees shall be charged by the clerk of the superior court for the  
31 performance of any official service required in connection with  
32 the entry of judgment pursuant to this section.

33 *SEC. 4. Section 8698.4 is added to the Business and Professions*  
34 *Code, to read:*

35 8698.4. *Pursuant to Section 15204.6 of the Food and*  
36 *Agricultural Code, a county agricultural commissioner may require*  
37 *full payment of any delinquent fees due to that county pursuant to*  
38 *Section 8698.1 as a condition to registering a structural pest*  
39 *control licensee to operate a structural pest control business in*  
40 *that county.*

1     ~~SEC. 3.~~

2     SEC. 5. Section 8698.6 of the Business and Professions Code  
3 is amended to read:

4     8698.6. This chapter shall remain in effect only until January  
5 1, 2018, and as of that date is repealed, unless a later enacted  
6 statute, which is chaptered before January 1, 2018, deletes or  
7 extends that date.

8     SEC. 6. *Section 15204.6 is added to the Food and Agricultural*  
9 *Code, to read:*

10     15204.6. *A commissioner may require full payment of any*  
11 *delinquent fees due to the county pursuant to Section 8698.1 of*  
12 *the Business and Professions Code as a condition of registering*  
13 *a structural pest control licensee to operate a structural pest*  
14 *control business in that county pursuant to Sections 15204 and*  
15 *15204.5.*

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