

AMENDED IN ASSEMBLY MAY 23, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1871

Introduced by Assembly Member Dickinson

February 19, 2014

An act to amend Sections 43100, 47000, 47001, 47002, 47010, 47011, and 47021 of, to add Section 47000.5 to, to add Chapter 9 (commencing with Section 890) to Part 1 of Division 1 of, to repeal Sections 47004.1 and 47012 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 1871, as amended, Dickinson. Agricultural products: direct marketing: certified farmers' markets.

(1) Existing law *provides for the establishment of standards for various agricultural products, including fruits, nuts, and vegetables, and* 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, or employee or agent of that person or entity, to 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.

~~This~~

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 declarations 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. *in that regard.*~~

This bill would define the terms “producer,” “practice of agricultural arts,” and “agricultural product” for purposes of the provisions relating to direct marketing. The bill would authorize the secretary to enter into a cooperative agreement with any county agricultural commissioner for purposes relating to the direct marketing of agricultural products, and would require compensation to be paid under those cooperative

agreements from moneys 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 for verification inspections, as specified.

(3) Existing law specifies that certified farmers' markets are locations established in accordance with local ordinances, and requires the governing body 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 *of law*. 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.

(4) Existing law ~~authorizes~~ *requires* the secretary to establish the Certified Farmers' Market Advisory ~~Committee~~. *Committee, composed of 17 members serving 2-year terms, to advise the secretary on matters relating to direct marketing and certified farmers' markets.*

This bill ~~instead would require the secretary to establish that committee, would specify the primary goals of the committee, and would revise the primary goals of the committee and the matters in on which the committee may make recommendations to the secretary. The bill would decrease the number of members on the committee from 17 members to 14 members, as specified. and would specify that members of the committee serve for 2-year terms or at the pleasure of the secretary.~~

(5) Existing law ~~requires specifies that a certified farmers' market certificate to be or a certified producer's certificate obtained from a county agricultural commissioner, commissioner is valid for 12 months and authorizes the county agricultural commissioner to assess a fee for the certificate and for inspections, as specified. requires a county agricultural commissioner to inspect certified farmers' markets and~~

the properties of certified producers, as specified. Existing law authorizes a county agricultural commissioner to charge a certification and inspection fee of up to \$60 per hour, except as specified.

~~This bill would repeal those provisions and instead would require an operator of a certified farmers' market operator or producer 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 producer to register with the department and obtain a certified producer's certificate. The bill would require a producer to submit specified information to the department, including, among other things, a declaration that he or she is knowledgeable of and intends to produce in accordance with good agricultural practices, as specified. by applying for and receiving a certificate from a county agricultural commissioner, and would revise the requirements for obtaining that certificate.~~

(6) Existing law requires, until January 1, 2018, that every an operator of a certified farmers' market remit to the department a fee fee, as established by the department each year, equal to the number of certified producer certificates and other agricultural producers participating on each market day for the entire previous quarter, ~~which shall to be deposited in the Food and Agriculture Fund and, upon appropriation by the Legislature, to be used by the department upon appropriation by the Legislature, as specified. for specified purposes.~~

~~This bill would instead require a fee equal to the number of vendors of \$2 for each vendor participating and selling goods under the authority and management of the certified farmers' market operator participating on each market day for the entire previous quarter to be remitted to the department. The bill would revise the purposes for which the fees may be used, including, among other things, for investigation and enforcement expenses, including expenses incurred by county agricultural commissioners for actions conducted pursuant to the provisions relating to direct marketing.~~

(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, or employee
9 or agent of that person or entity, to make any statement,
10 representation, or assertion orally, by public statement,
11 advertisement, signage, or by any means that relates to the sale or
12 availability of agricultural products that is false, deceptive, or
13 misleading regarding any of the following:

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

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

22 891. In lieu of prosecution, the secretary, or a county
23 agricultural commissioner under the authority of the secretary,
24 may levy a civil penalty against a person or entity that violates this
25 chapter in an amount not less than five hundred dollars (\$500) and
26 not more than five thousand dollars (\$5,000) for each violation.
27 The amount of the penalty assessed for each violation shall be
28 based upon the scope of the violation, the seriousness of the
29 deception, and the impact of the penalty on the violator, including
30 the deterrent effect on future violations. Subdivision (e) of Section

1 43003 shall apply to a fine or civil penalty levied pursuant to this
2 section.

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

10 (b) An action taken pursuant to this section shall be based upon
11 the scope of the violation, the seriousness of the deception, and
12 the corrective or deterrent effect on future violations.

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

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

32 (b) All civil penalties collected pursuant to enforcement actions
33 by a county agricultural commissioner pursuant to this chapter
34 shall be paid to the county treasurer.

35 894. An action brought by the state or a county pursuant to
36 Section 892 or 893 for a violation of Section 890 shall preclude a
37 concurrent proceeding by the state or a county for the same act.

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

1 43100. (a) The terms “California grown,” “California-grown,”
2 and similar terms with identical connotations shall be used in the
3 labeling or advertising of agricultural products as follows:

4 (1) The terms “California grown,” “California-grown,” and
5 similar terms with identical connotations may be used for
6 marketing, advertising, or promotional ~~purposes,~~ *purposes* only
7 to identify food or agricultural products that have been produced
8 in the state or harvested in its surface or coastal waters.

9 (2) The secretary may adopt guidelines, rules, and regulations
10 to further define acceptable uses of the terms “California grown,”
11 “California-grown,” and similar terms with identical ~~connotations,~~
12 *connotations* and to prevent any misleading use of the terms.

13 (b) A false, deceptive, or misleading use of the term “California
14 grown,” “California-grown,” or similar terms with identical
15 connotations, or of any seals or other identities officially adopted
16 by the department in connection with these terms, or any
17 unwarranted use of these items or terms, shall be subject to the
18 provisions and penalties set forth in Chapter 9 (commencing with
19 Section 890) of Part 1 of Division 1.

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

22 47000. The Legislature finds and declares all of the following
23 with regard to the direct marketing of agricultural products:

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

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

32 (c) The direct marketing potential of a wide variety of
33 California-produced agricultural products should be maximized
34 and encouraged.

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

39 (e) The permitting, regulating, and operating of certified farmers’
40 markets provide the essential core and foundation for the creation

1 and operation of additional nonagricultural vending activities that
2 are ancillary but contiguous to the certified farmers' market,
3 thereby providing a larger community event amenity for business
4 districts and additional revenue for the operators of certified
5 farmers' markets.

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

9 (g) It is the intent of the state to promote the purchase and
10 consumption of California-grown produce and to promote access
11 to California-produced agricultural products. Restaurants and
12 nonprofit organizations can assist in bringing California-grown
13 products to all Californians.

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

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

23 (j) The department is encouraged to establish an ad hoc advisory
24 committee to assist the department in establishing regulations
25 affecting direct marketing of products and to advise the secretary
26 in all matters pertaining to direct marketing.

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

29 47000.5. The following definitions apply to this chapter, unless
30 otherwise specified:

31 (a) "Agricultural product" means a fresh or processed product
32 produced in California, including fruits, nuts, vegetables, herbs,
33 mushrooms, dairy, shell eggs, honey, *pollen*, *unprocessed bees*
34 *wax*, *propolis*, *royal jelly*, flowers, grains, nursery stock, livestock
35 meats, poultry meats, rabbit meats, and fish, including shellfish
36 that is produced under controlled conditions in waters located in
37 California. Products that are characterized as *services*, arts, crafts,
38 bakery, candies, soaps, balms, perfumes, cosmetics, *pottery*,
39 clothing, fabrics, pastas, compost, fertilizers, candles, *ceramics*,
40 foraged, and other types of wares are not agricultural products for

1 purposes of this chapter. *A product that combines an agricultural*
2 *product with a nonagricultural product or service in a manner*
3 *that substantially increases the purchase price of the product shall*
4 *disqualify the product from being sold as an agricultural product*
5 *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 California
30 agricultural products.

31 (b) These regulations may include provisions to ensure and
32 maintain the quality and wholesomeness of the products, and to
33 ensure that the selling activities are conducted without fraud,
34 deception, or misrepresentation.

35 (c) The secretary may enter into a cooperative agreement with
36 a county agricultural commissioner to carry out the provisions of
37 this chapter, including, but not limited to, administration,
38 investigations, inspections, registrations, and assistance pertaining
39 to direct marketing producers and outlets. Compensation under
40 the cooperative agreement shall be paid from assessments and fees

1 collected and deposited pursuant to this chapter and shall provide
2 reimbursement to the county agricultural commissioner for
3 associated costs not otherwise adequately funded pursuant to
4 Section 47020.

5 (d) Upon reasonable suspicion of a violation of Section 890, a
6 certified farmers' market operator may contract with a county
7 agricultural commissioner for a special onsite field or storage
8 verification inspection of a direct marketing producer selling in a
9 certified farmers' market operated and controlled by the operator.
10 All contracts and contract fees are subject to the discretion of the
11 county agricultural commissioner in the county where the
12 verification inspections are being requested.

13 SEC. 6. Section 47002 of the Food and Agricultural Code is
14 amended to read:

15 47002. California farmers registered or certified pursuant to
16 this chapter as direct marketing producers may transport for sale
17 and sell California-grown fresh fruits, nuts, and vegetables that
18 they produce, directly to the public, and shall be exempt from size,
19 standard pack, container, and labeling requirements at an outlet or
20 location operated by an individual, organization, or entity that is
21 regulated pursuant to this chapter or is recognized by a regulation
22 adopted pursuant to Section 47001 and is otherwise authorized by
23 local laws, subject to the following conditions:

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

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

29 (c) All fresh fruits, nuts, and vegetables sold in closed consumer
30 containers shall be labeled with the name, address, and ZIP Code
31 of the producer, and a declaration of identity and net quantity of
32 the commodity in the package.

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

37 (1) Consumers who are end users.

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

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

3 (e) A farmer selling produce under paragraph (2) or (3) of
4 subdivision (d) shall provide the individual, organization, or entity
5 a memorandum that lists the identity of the producer, the address
6 of the producer, and the identity and quantity of the produce
7 purchased. A bill of sale or a container label including this
8 information shall meet the requirements of this subdivision.

9 SEC. 7. Section 47004 of the Food and Agricultural Code is
10 repealed.

11 SEC. 8. Section 47004 is added to the Food and Agricultural
12 Code, to read:

13 47004. (a) Certified farmers' markets are California
14 agricultural product point of sale locations that are registered under
15 the provisions of Section 47020 and operated in accordance with
16 this chapter and regulations adopted pursuant to this chapter.

17 (b) The operator of a certified farmers' market shall establish
18 a clearly defined marketing area where only agricultural products
19 may be sold. Only the producer or the lawful authorized
20 representative of the producer may sell agricultural products within
21 the area defined as a certified farmers' market. Sales of agricultural
22 products purchased from another individual or entity shall not
23 occur within a certified farmers' market, and an agricultural product
24 producer or product dealer shall not sell his or her agricultural
25 products to another individual or entity with the understanding or
26 knowledge that the products are intended to be resold in a certified
27 farmers' market in violation of this chapter or the regulations
28 adopted pursuant to this chapter. Every producer selling within a
29 certified farmers' market shall comply with Section 47020.

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

32 (1) Post a conspicuous sign or banner at the point of sale that
33 states the name of the farm or ranch, the county where the farm
34 or ranch maintains the production grounds that produced the
35 products being offered for sale is located, and a statement that "We
36 Grew What We Are Selling" or "We Raised What We Are Selling"
37 or "We Grow What We Sell" or similar phrases that clearly
38 represent that the farm or ranch is only selling agricultural products
39 that they themselves have grown or raised on California land that
40 they possess or control. Product sales by different farms at the

1 same vendor stand shall separate the products from each farm or
2 ranch and correspondingly post the required sign or banner in
3 direct relationship with the sales display of the products produced
4 by each farm.

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

22 (3) Ensure all products being represented or offered for sale as
23 organic are clearly labeled or have conspicuous and posted
24 point-of-sale signage identifying the products as organic.

25 (d) The representations required pursuant to subdivision (c)
26 shall be subject to the provisions and penalties specified in Section
27 890.

28 (e) An operator of a certified farmers' market that also operates,
29 manages, or otherwise controls a separate sales activity or vending
30 event or marketing area in close proximity, adjacent, or contiguous
31 to the operator's certified farmers' market shall not allow the sale
32 or distribution of fresh whole ~~produce~~ *fruits, nuts, vegetables, and*
33 *flowers* by vendors selling within those sales activity or vending
34 event or marketing areas.

35 (f) The operator of a certified farmers' market shall keep an
36 accurate participation record of the individual direct marketing
37 producers whose agricultural products were presented for sale in
38 their market each market day. The operators shall submit to the
39 department a quarterly report of the registration numbers and
40 participation frequency of the direct marketing producers whose

1 agricultural products were presented for sale in the operator's
2 market during that past quarter. The department shall create and
3 maintain online capability for reporting.

4 (g) Operators of certified farmers' markets may establish rules
5 and procedures that are more restrictive and stringent than state
6 laws or regulations governing or implementing this chapter, so
7 long as the rules and procedures are not in conflict with state laws
8 or regulations.

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

19 SEC. 9. Section 47004.1 of the Food and Agricultural Code is
20 repealed.

21 SEC. 10. Section 47010 of the Food and Agricultural Code is
22 amended to read:

23 47010. (a) The secretary shall establish a committee that shall
24 be known as the Certified Farmers' Market Advisory Committee.
25 The primary goals of the committee shall be all of the following:

26 (1) Promote the demand and consumption of agricultural
27 products purchased directly from producers at certified farmers'
28 markets.

29 (2) Ensure that existing and future certified farmers' markets
30 are primarily maintained for the benefit of the producers selling
31 their products within those markets.

32 (3) Ensure that honest and fair marketing of products ~~occur~~
33 *occurs* within certified farmers' markets and within an ancillary
34 vending activity under the operation and control of a certified
35 farmers' market operator.

36 (b) The committee shall be composed of 14 members and their
37 alternates. The secretary shall endeavor to appoint six members
38 and their alternates who shall be producers or representatives of
39 agricultural organizations that represent producers, six members
40 and their alternates who shall be certified farmers' market operators

1 or representatives of the operator, one public member, and one
2 member and his or her alternate who shall be a county agricultural
3 commissioner. An alternate member shall serve at a committee
4 meeting only in the absence of, and shall have the same powers
5 and duties as, the member for whom he or she is designated as
6 alternate. All appointees shall serve two-year terms or at the
7 pleasure of the secretary. Members appointed to fill vacancies shall
8 serve the remainder of the term.

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

11 (d) The committee shall meet at the request of the secretary. It
12 shall meet at least once each year.

13 (e) The committee may appoint its own officers, including a
14 chairperson, a vice chairperson, a secretary, and any other officers
15 it deems necessary. The committee may adopt rules that it deems
16 are necessary for the conduct of its meetings and functions to carry
17 out the objectives of this chapter.

18 SEC. 11. Section 47011 of the Food and Agricultural Code is
19 amended to read:

20 47011. The Certified Farmers' Market Advisory Committee
21 shall be advisory to the secretary on matters pertaining to direct
22 marketing of agricultural products at certified farmers' markets
23 and may make recommendations, including, but not limited to, the
24 following:

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

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

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

33 (d) Program and enforcement fees collected pursuant to Section
34 47021.

35 (e) Statewide review of certified farmers' market promotion
36 and enforcement actions.

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

1 (g) Alternative strategies for certification and investigation
2 methodology, and methods for industry self-regulation and
3 commission formation.

4 SEC. 12. Section 47012 of the Food and Agricultural Code is
5 repealed.

6 SEC. 13. Section 47020 of the Food and Agricultural Code is
7 repealed.

8 SEC. 14. Section 47020 is added to the Food and Agricultural
9 Code, to read:

10 47020. (a) An operator of a certified farmers' market shall
11 annually register with the department *by applying for and obtaining*
12 *a certificate from the county agricultural commissioner's office*
13 *in the county in which the certified farmers' market is located. The*
14 *application shall include* the times and location of the market, the
15 name and contact information for the operator of the market, and
16 the agent for service of process for the operator. Upon ~~completion~~
17 ~~of a proper approval of an application~~, the county agricultural
18 commissioner shall issue to the operator a certified farmers' market
19 certificate.

20 (b) A certified farmers' market certificate issued by a county
21 agricultural commissioner shall be valid for 12 months from the
22 date of ~~issue~~ *issue*, and may be renewed annually thereafter. The
23 county agricultural commissioner shall inspect every certified
24 farmers' market within his or her jurisdiction at least once for
25 every six months of operation. ~~The~~ *At the time of application or*
26 *renewal, the county agricultural commissioner shall provide a*
27 *schedule of fees that reflects* an estimate of expenses for inspections
28 ~~at the time of application or renewal~~ and may charge a certification
29 and inspection fee ~~reflecting or~~ equal to the actual expenses
30 incurred.

31 (c) (1) (A) ~~A~~ *Before selling at a certified farmers' market, a*
32 ~~producer wishing to sell at a certified farmers' market shall apply~~
33 ~~and shall~~ register with the department ~~and obtain a certified~~
34 ~~producer's certificate. Each registration~~ *by applying for and*
35 *obtaining a certificate from the county agricultural commissioner's*
36 *office in the county in which the producer's land or facility is*
37 *located. The application shall include a declaration by the producer*
38 *that he or she is knowledgeable of and intends to produce in*
39 *accordance with good agricultural practices, as outlined in the*
40 *Small Farm Food Safety Guidelines published by the department.*

1 *Upon approval of an application, the county agricultural*
 2 *commissioner shall issue to the producer a certified producer's*
 3 *certificate.*

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

8 (2) Once certified, a producer farming fruit, vegetables, nuts,
 9 herbs, and similar crops shall annually submit ~~to the department~~
 10 ~~required~~ information *requested by the department* about the specific
 11 crops that he or she will harvest or intends to harvest for ~~sales~~ *sale*
 12 directly to the public. The secretary may promulgate regulations
 13 ~~to define specifying~~ the information *a producer is required by this*
 14 ~~paragraph: to submit.~~

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

36 (d) Renewal of a certified farmers' market certificate or certified
 37 producer's certificate may be denied by either the department or
 38 a county agricultural commissioner if a certified farmers' market
 39 or a producer is delinquent in the payment of the required state fee
 40 or a county certification and inspection fee or administrative civil

1 penalty authorized pursuant to this chapter. The certificate ~~shall~~
2 *may* be eligible for renewal when all outstanding balances and
3 associated penalties or administrative fines have been paid to the
4 department or the respective county or counties.

5 SEC. 15. Section 47021 of the Food and Agricultural Code is
6 amended to read:

7 47021. (a) Every operator of a certified farmers' market shall
8 remit to the department, within 30 days after the end of each
9 quarter, a fee equal to the number of vendors participating and
10 selling goods under the authority and management of the certified
11 farmers' market operator participating on each market day for the
12 entire previous quarter. The fee shall be two dollars (\$2) for each
13 vendor whose products were presented for sale on each market
14 day. A certified farmers' market operator may directly recover all
15 or part of the fee from the participating vendors.

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

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

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

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

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

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

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

37 (6) The maintenance of a current statewide listing of producers
38 who have been certified.

39 (7) The dissemination to all certified farmers' markets
40 information regarding the suspension or revocation of any

1 producer’s certificate and the imposition of administrative
2 penalties.

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

8 (9) *Investigation and enforcement expenses, including expenses*
9 *incurred by any county agricultural commissioner for actions*
10 *conducted pursuant to this chapter.*

11 SEC. 16. No reimbursement is required by this act pursuant to
12 Section 6 of Article XIII B of the California Constitution for certain
13 costs that may be incurred by a local agency or school district
14 because, in that regard, this act creates a new crime or infraction,
15 eliminates a crime or infraction, or changes the penalty for a crime
16 or infraction, within the meaning of Section 17556 of the
17 Government Code, or changes the definition of a crime within the
18 meaning of Section 6 of Article XIII B of the California
19 Constitution.

20 However, if the Commission on State Mandates determines that
21 this act contains other costs mandated by the state, reimbursement
22 to local agencies and school districts for those costs shall be made
23 pursuant to Part 7 (commencing with Section 17500) of Division
24 4 of Title 2 of the Government Code.