

AMENDED IN SENATE JUNE 11, 2014

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.

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.~~ *specified*. 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 authorizes the secretary to adopt regulations 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 requires the secretary to establish the Certified Farmers' Market Advisory 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 would revise the primary goals of the committee and the matters 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, and would specify that members of the committee serve for 2-year terms or at the pleasure of the secretary.

(5) Existing law specifies that a certified farmers' market certificate or a certified producer's certificate obtained from a county agricultural commissioner is valid for 12 months and 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 instead require a certified farmers' market operator or producer to annually register with the department 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 an operator of a certified farmers' market remit to the department a 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, to be deposited in the Food and Agriculture Fund and, upon appropriation by the Legislature, to be used by the department for specified purposes.

This bill would instead require a fee 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. FALSE, DECEPTIVE, OR MISLEADING MARKETING
6

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

1 (3) The manner and method of production of the agricultural
2 product.

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

7 891. In lieu of prosecution, the secretary, or a county
8 agricultural commissioner under the authority of the secretary,
9 may levy a civil penalty against a person or entity that violates this
10 chapter in an amount not less than five hundred dollars (\$500) and
11 not more than five thousand dollars (\$5,000) for each violation.
12 The amount of the penalty assessed for each violation shall be
13 based upon the scope of the violation, the seriousness of the
14 deception, and the impact of the penalty on the violator, including
15 the deterrent effect on future violations. Subdivision (e) of Section
16 43003 shall apply to a fine or civil penalty levied pursuant to this
17 section.

18 892. (a) ~~In addition to, or in lieu of, an~~ Any action taken against
19 a person by the secretary or a county agricultural commissioner
20 pursuant to Section 890 or ~~891~~, *891 shall not preclude* the secretary
21 or a county agricultural commissioner ~~may, relative to the offense,~~
22 ~~modify, suspend, revoke, or refuse or condition the issuance of a~~
23 ~~license, permit, registration, or certification issued under the~~
24 ~~provisions of this code.~~ *from taking a separate action for a*
25 *violation of a provision of this code that is specific to a particular*
26 *license or permit.*

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

30 ~~(c) An action taken pursuant to this section shall be subject to~~
31 ~~the due process and applicable civil remedy provisions of this code~~
32 ~~that govern the issuance of the license, permit, registration, or~~
33 ~~certification.~~

34 893. (a) All civil penalties collected pursuant to this chapter
35 by the secretary shall be deposited in the Direct Agricultural
36 Marketing Penalty Account, which is hereby created in the
37 Department of Food and Agriculture Fund, and shall be used to
38 conduct investigations and enforcement actions upon complaints
39 filed or pursuant to information received that results in the
40 investigation of a violation of Section 890. Money deposited

1 pursuant to this chapter also may be used to contract with county
2 agricultural commissioners for services that further the purposes
3 of this chapter, and may be used for expenses incurred by county
4 agricultural commissioners for investigative and enforcement
5 actions conducted pursuant to this chapter. Notwithstanding Section
6 13340 of the Government Code, all moneys deposited pursuant to
7 this chapter shall be continuously appropriated to the department
8 without regard to fiscal year for purposes of this chapter.

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

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

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

17 43100. (a) The terms “California grown,” “California-grown,”
18 and similar terms with identical connotations shall be used in the
19 labeling or advertising of agricultural products as follows:

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

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

29 (b) A false, deceptive, or misleading use of the term “California
30 grown,” “California-grown,” or similar terms with identical
31 connotations, or of any seals or other identities officially adopted
32 by the department in connection with these terms, or any
33 unwarranted use of these items or terms, shall be subject to the
34 provisions and penalties set forth in Chapter 9 (commencing with
35 Section 890) of Part 1 of Division 1.

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

38 47000. The Legislature finds and declares all of the following
39 with regard to the direct marketing of agricultural products:

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

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

9 (c) The direct marketing potential of a wide variety of
10 California-produced agricultural products should be maximized
11 and encouraged.

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

16 (e) The permitting, regulating, and operating of certified farmers'
17 markets provide the essential core and foundation for the creation
18 and operation of additional nonagricultural vending activities that
19 are ancillary but contiguous to the certified farmers' market,
20 thereby providing a larger community event amenity for business
21 districts and additional revenue for the operators of certified
22 farmers' markets.

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

26 (g) It is the intent of the state to promote the purchase and
27 consumption of California-grown produce and to promote access
28 to California-produced agricultural products. Restaurants and
29 nonprofit organizations can assist in bringing California-grown
30 products to all Californians.

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

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

1 (j) The department is encouraged to establish an ad hoc advisory
2 committee to assist the department in establishing regulations
3 affecting direct marketing of products and to advise the secretary
4 in all matters pertaining to direct marketing.

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

7 47000.5. The following definitions apply to this chapter, unless
8 otherwise specified:

9 (a) “Agricultural product” means a fresh or processed product
10 produced in California, including fruits, nuts, vegetables, herbs,
11 mushrooms, dairy, shell eggs, honey, pollen, unprocessed bees
12 wax, propolis, royal jelly, flowers, grains, nursery stock, livestock
13 meats, poultry meats, rabbit meats, and fish, including shellfish
14 that is produced under controlled conditions in waters located in
15 California. Products that are characterized as services, arts, crafts,
16 bakery, candies, soaps, balms, perfumes, cosmetics, pottery,
17 clothing, fabrics, pastas, compost, fertilizers, candles, ceramics,
18 foraged, and types of wares are not agricultural products for
19 purposes of this chapter. A product that combines an agricultural
20 product with a nonagricultural product or service in a manner that
21 ~~substantially~~ *materially* increases the purchase price of the product
22 shall disqualify the product from being sold as an agricultural
23 product for purposes of this chapter.

24 (b) “Practice of the agricultural arts” means the undertaking of
25 being predominantly responsible for the decisions and actions
26 encompassing the various phases of producing an agricultural
27 product. The practice of the agricultural arts for fruit, floral, nut,
28 vegetable, and other plant products includes directive or actual
29 responsibility for all the actions of planting, growing, fertilizing,
30 irrigating, cultivating, pest control, and harvesting. The practice
31 of the agricultural arts for agricultural animal products includes
32 directive or actual responsibility for a substantial time of the
33 raising, feeding, veterinary care, and product harvesting.

34 (c) “Producer” means a person, partnership, corporation, or an
35 otherwise legally formed farm or ranch that produces agricultural
36 products by the practice of the agricultural arts upon land that the
37 person or entity owns, rents, leases, sharecrops, or otherwise
38 controls and has the documented legal right to possession. A person
39 or entity that rents, leases, or otherwise acquires the right to
40 possession of property essentially only for or limited to the period

1 of the harvest season of the agricultural products produced on that
2 property shall not be considered a producer under the provisions
3 of this chapter.

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

6 47001. (a) The secretary may adopt regulations to encourage
7 the direct sale by farmers to the public of all types of California
8 agricultural products.

9 (b) These regulations may include provisions to ensure and
10 maintain the quality and wholesomeness of the products, and to
11 ensure that the selling activities are conducted without fraud,
12 deception, or misrepresentation.

13 (c) The secretary may enter into a cooperative agreement with
14 a county agricultural commissioner to carry out the provisions of
15 this chapter, including, but not limited to, administration,
16 investigations, inspections, registrations, and assistance pertaining
17 to direct marketing producers and outlets. Compensation under
18 the cooperative agreement shall be paid from assessments and fees
19 collected and deposited pursuant to this chapter and shall provide
20 reimbursement to the county agricultural commissioner for
21 associated costs not otherwise adequately funded pursuant to
22 Section 47020.

23 (d) Upon reasonable suspicion of a violation of Section 890, a
24 certified farmers' market operator may contract with a county
25 agricultural commissioner for a special onsite field or storage
26 verification inspection of a direct marketing producer selling in a
27 certified farmers' market operated and controlled by the operator.
28 All contracts and contract fees are subject to the discretion of the
29 county agricultural commissioner in the county where the
30 verification inspections are being requested.

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

33 47002. California farmers registered or certified pursuant to
34 this chapter as direct marketing producers may transport for sale
35 and sell California-grown fresh fruits, nuts, and vegetables that
36 they produce, directly to the public, and shall be exempt from size,
37 standard pack, container, and labeling requirements at an outlet or
38 location operated by an individual, organization, or entity that is
39 regulated pursuant to this chapter or is recognized by a regulation

1 adopted pursuant to Section 47001 and is otherwise authorized by
2 local laws, subject to the following conditions:

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

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

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

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

- 16 (1) Consumers who are end users.
- 17 (2) Individuals, organizations, or entities that subsequently sell
18 the produce directly to end users.
- 19 (3) Individuals, organizations, or entities that distribute the
20 produce directly to end users at no cost to those end users.

21 (e) A farmer selling produce under paragraph (2) or (3) of
22 subdivision (d) shall provide the individual, organization, or entity
23 a memorandum that lists the identity of the producer, the address
24 of the producer, and the identity and quantity of the produce
25 purchased. A bill of sale or a container label including this
26 information shall meet the requirements of this subdivision.

27 SEC. 7. Section 47004 of the Food and Agricultural Code is
28 repealed.

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

31 47004. (a) Certified farmers' markets are California
32 agricultural product point of sale locations that are registered under
33 the provisions of Section 47020 and operated in accordance with
34 this chapter and regulations adopted pursuant to this chapter.

35 (b) The operator of a certified farmers' market shall establish
36 a clearly defined marketing area where only agricultural products
37 may be sold. Only the producer or the lawful authorized
38 representative of the producer may sell agricultural products within
39 the area defined as a certified farmers' market. Sales of agricultural
40 products purchased from another individual or entity shall not

1 occur within a certified farmers’ market, and an agricultural product
2 producer or product dealer shall not sell his or her agricultural
3 products to another individual or entity with the understanding or
4 knowledge that the products are intended to be resold in a certified
5 farmers’ market in violation of this chapter or the regulations
6 adopted pursuant to this chapter. Every producer selling within a
7 certified farmers’ market shall comply with Section 47020.

8 (c) All vendors of agricultural products selling within a certified
9 farmers’ market shall do all of the following:

10 (1) Post a conspicuous sign or banner at the point of sale that
11 states the name of the farm or ranch, the county where the farm
12 or ranch maintains the production grounds that produced the
13 products being offered for sale is located, and a statement that “We
14 Grew What We Are Selling” or “We Raised What We Are Selling”
15 or “We Grow What We Sell” or similar phrases that clearly
16 represent that the farm or ranch is only selling agricultural products
17 that they themselves have grown or raised on California land that
18 they possess or control. Product sales by different farms at the
19 same vendor stand shall separate the products from each farm or
20 ranch and correspondingly post the required sign or banner in
21 direct relationship with the sales display of the products produced
22 by each farm.

23 (2) Ensure that all processed agricultural products that they offer
24 for sale state in a clear manner by package label, container label,
25 or bulk sales signage that they consist only, with the exception of
26 incidental flavorings and necessary preservatives, of agricultural
27 products grown or raised by the farm or ranch selling them, the
28 farm or ranch name, and the city where the farm or ranch is located.
29 In addition, every processed product shall identify on a package
30 label, container label, or on bulk sales signage the registration
31 number or other identity reference of the facility where the food
32 was processed, or another required labeling statement or
33 information, in accordance with Sections 110460, 114365, and
34 114365.2 of the Health and Safety Code, or, in the case of meat
35 *or poultry* products, the identity of the facility where the meat *or*
36 *poultry* products were cut and wrapped, in accordance with the
37 United States Department of Agriculture or State of California
38 inspection standards, *respectively* or, in the case of dairy products,
39 the identity of the facility where the dairy products were
40 manufactured or processed.

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

4 (d) The representations required pursuant to subdivision (c)
5 shall be subject to the provisions and penalties specified in Section
6 890.

7 (e) An operator of a certified farmers’ market that also operates,
8 manages, or otherwise controls a separate sales activity or vending
9 event or marketing area in close proximity, adjacent, or contiguous
10 to the operator’s certified farmers’ market shall not allow the sale
11 or distribution of fresh whole fruits, nuts, vegetables, and flowers
12 by vendors selling within those sales activity or vending event or
13 marketing areas.

14 (f) The operator of a certified farmers’ market shall keep an
15 accurate participation record of the individual direct marketing
16 producers whose agricultural products were presented for sale in
17 their market each market day. The operators shall submit to the
18 department a quarterly report of the registration numbers and
19 participation frequency of the direct marketing producers whose
20 agricultural products were presented for sale in the operator’s
21 market during that past quarter. The department shall create and
22 maintain online capability for reporting.

23 (g) Operators of certified farmers’ markets may establish rules
24 and procedures that are more restrictive and stringent than state
25 laws or regulations governing or implementing this chapter, so
26 long as the rules and procedures are not in conflict with state laws
27 or regulations.

28 (h) Except for certified farmers’ markets operated by
29 government agencies, nonprofit entities and other qualified
30 operators of certified farmers’ markets shall be considered private
31 entities and may take actions, adopt rules, and impose requirements
32 they deem necessary for the proper and honest operation of their
33 market, subject to the application of any state or other laws.
34 Government agency operators of certified farmers’ markets are
35 subject to applicable state laws, the regulations and laws of the
36 governing agency, and other laws governing the conduct and
37 actions they may take as a governmental entity.

38 SEC. 9. Section 47004.1 of the Food and Agricultural Code is
39 repealed.

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

3 47010. (a) The secretary shall establish a committee that shall
4 be known as the Certified Farmers' Market Advisory Committee.

5 The primary goals of the committee shall be all of the following:

6 (1) Promote the demand and consumption of agricultural
7 products purchased directly from producers at certified farmers'
8 markets.

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

12 (3) Ensure that honest and fair marketing of products occurs
13 within certified farmers' markets and within an ancillary vending
14 activity under the operation and control of a certified farmers'
15 market operator.

16 (b) The committee shall be composed of 14 members and their
17 alternates. The secretary shall endeavor to appoint six members
18 and their alternates who shall be producers or representatives of
19 agricultural organizations that represent producers, six members
20 and their alternates who shall be certified farmers' market operators
21 or representatives of the operator, one public member, and one
22 member and his or her alternate who shall be a county agricultural
23 commissioner. An alternate member shall serve at a committee
24 meeting only in the absence of, and shall have the same powers
25 and duties as, the member for whom he or she is designated as
26 alternate. All appointees shall serve two-year terms or at the
27 pleasure of the secretary. Members appointed to fill vacancies shall
28 serve the remainder of the term.

29 (c) The secretary shall make an effort to include members who
30 represent ~~a diverse state~~ geographical *diversity* and *diverse*
31 agricultural ~~product~~ *products*.

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

34 (e) The committee may appoint its own officers, including a
35 chairperson, a vice chairperson, a secretary, and any other officers
36 it deems necessary. The committee may adopt rules that it deems
37 are necessary for the conduct of its meetings and functions to carry
38 out the objectives of this chapter.

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

1 47011. The Certified Farmers' Market Advisory Committee
2 shall be advisory to the secretary on matters pertaining to direct
3 marketing of agricultural products at certified farmers' markets
4 and may make recommendations, including, but not limited to, the
5 following:

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

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

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

14 (d) Program and enforcement fees collected pursuant to Section
15 47021.

16 (e) Statewide review of certified farmers' market promotion
17 and enforcement actions.

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

20 (g) Alternative strategies for certification and investigation
21 methodology, and methods for industry self-regulation and
22 commission formation.

23 SEC. 12. Section 47012 of the Food and Agricultural Code is
24 repealed.

25 SEC. 13. Section 47020 of the Food and Agricultural Code is
26 repealed.

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

29 47020. (a) An operator of a certified farmers' market shall
30 annually register with the department by applying for and obtaining
31 a certificate from the county agricultural commissioner's office in
32 the county in which the certified farmers' market is located. The
33 application shall include the times and location of the market, the
34 name and contact information for the operator of the market, and
35 the agent for service of process for the operator. Upon approval
36 of an application, the county agricultural commissioner shall issue
37 to the operator a certified farmers' market certificate.

38 (b) A certified farmers' market certificate issued by a county
39 agricultural commissioner shall be valid for 12 months from the
40 date of issue, and may be renewed annually thereafter. The county

1 agricultural commissioner shall inspect every certified farmers’
2 market within his or her jurisdiction at least once for every six
3 months of operation. At the time of application or renewal, the
4 county agricultural commissioner shall provide a schedule of fees
5 that reflects an estimate of expenses for inspections and may charge
6 a certification and inspection fee equal to the actual expenses
7 incurred.

8 (c) (1) (A) Before selling at a certified farmers’ market, a
9 producer shall register with the department by applying for and
10 obtaining a certificate from the county agricultural commissioner’s
11 office in the county in which the producer’s land or facility is
12 located. The application shall include a declaration by the producer
13 that he or she is knowledgeable of and intends to produce in
14 accordance with good agricultural practices, as outlined in the
15 Small Farm Food Safety Guidelines published by the department.
16 Upon approval of an application, the county agricultural
17 commissioner shall issue to the producer a certified producer’s
18 certificate.

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

23 (2) Once certified, a producer farming fruit, vegetables, nuts,
24 herbs, and similar crops shall annually submit information
25 requested by the department about the specific crops that he or she
26 will harvest or intends to harvest for sale directly to the public.
27 The secretary may promulgate regulations specifying the
28 information a producer is required to submit.

29 (3) A certified producer’s certificate issued by a county
30 agricultural commissioner shall be valid for up to 12 months from
31 the date of issue and may be renewed annually thereafter. The
32 county agricultural commissioner in each county shall perform at
33 least one onsite inspection for all new certified producer’s
34 certificate applicants, and may perform additional inspections as
35 needed of the property or properties listed on the certified
36 producer’s certificate issued in his or her county as deemed
37 appropriate by the county agricultural commissioner to verify
38 production of the commodities being sold at a certified farmers’
39 market or the existence in storage of the producer’s actual harvested
40 production, or both, of any product being sold at a certified

1 farmers' market. Where practical or purposeful, verification
2 inspections shall be made when the actual harvest or sale of the
3 commodity in question is occurring. The county agricultural
4 commissioner shall provide to the producer a schedule of fees that
5 reflects an estimate of expenses for certification or inspection at
6 the time of application or renewal or before any needed additional
7 verification inspection, and may charge a certification and
8 inspection fee equal to the actual expenses incurred.

9 (d) Renewal of a certified farmers' market certificate or certified
10 producer's certificate may be denied by either the department or
11 a county agricultural commissioner if a certified farmers' market
12 or a producer is delinquent in the payment of the required state fee
13 or a county certification and inspection fee or administrative civil
14 penalty authorized pursuant to this chapter. The certificate may
15 be eligible for renewal when all outstanding balances and
16 associated penalties or administrative fines have been paid to the
17 department or the respective county or counties.

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

20 47021. (a) Every operator of a certified farmers' market shall
21 remit to the department, within 30 days after the end of each
22 quarter, a fee equal to the number of vendors participating and
23 selling goods under the authority and management of the certified
24 farmers' market operator participating on each market day for the
25 entire previous quarter. The fee shall be two dollars (\$2) for each
26 vendor whose products were presented for sale on each market
27 day. A certified farmers' market operator may directly recover all
28 or part of the fee from the participating vendors. *An operator of a*
29 *certified farmers' market that allows only vendors of agricultural*
30 *products produced by producers on land located in the same county*
31 *as the certified farmers' market may petition the secretary for a*
32 *reduction in the vendor fee. The petition shall include a statement*
33 *of verification of the information upon which the petition is based*
34 *by the county agricultural commissioner in the county where*
35 *certified farmers' market is located.*

36 (b) An operator of a certified farmers' market who fails to pay
37 the required fee within 30 days after the end of the quarter in which
38 it is due shall pay to the department a monthly interest charge on
39 the unpaid balance and a late penalty charge, to be determined by

1 the department and not to exceed the maximum amount permitted
2 by law.

3 (c) All fees collected pursuant to this section shall be deposited
4 in the Department of Food and Agriculture Fund. The money
5 generated by the imposition of the fees shall be used, upon
6 appropriation by the Legislature, by the department to cover the
7 reasonable costs to carry out this chapter, including all of the
8 following actions undertaken by the department:

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

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

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

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

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

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

20 (7) The dissemination to all certified farmers' markets
21 information regarding the suspension or revocation of any
22 producer's certificate and the imposition of administrative
23 penalties.

24 (8) Other actions, including the maintenance of special fund
25 reserves, that are recommended by the Certified Farmers' Market
26 Advisory Committee or any ad hoc direct marketing advisory
27 committee and approved by the department for purposes of carrying
28 out this chapter pertaining to certified farmers' markets.

29 (9) Investigation and enforcement expenses, including expenses
30 incurred by any county agricultural commissioner for actions
31 conducted pursuant to this chapter.

32 SEC. 16. No reimbursement is required by this act pursuant to
33 Section 6 of Article XIII B of the California Constitution for certain
34 costs that may be incurred by a local agency or school district
35 because, in that regard, this act creates a new crime or infraction,
36 eliminates a crime or infraction, or changes the penalty for a crime
37 or infraction, within the meaning of Section 17556 of the
38 Government Code, or changes the definition of a crime within the
39 meaning of Section 6 of Article XIII B of the California
40 Constitution.

1 However, if the Commission on State Mandates determines that
2 this act contains other costs mandated by the state, reimbursement
3 to local agencies and school districts for those costs shall be made
4 pursuant to Part 7 (commencing with Section 17500) of Division
5 4 of Title 2 of the Government Code.

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