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AMENDED IN SENATE JUNE 30, 2014

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. 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~~ *Department of Food and Agriculture* for an advisory opinion, and for the ~~Department of Food and Agriculture~~ *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 authorize operators of certified farmers’ markets meeting specified requirement to petition the secretary for a vendor fee of \$1.* 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,

1 representation, or assertion orally, by public statement,
2 advertisement, signage, or by any means that relates to the sale or
3 availability of agricultural products that is false, deceptive, or
4 misleading regarding any of the following:

- 5 (1) The area of production of the agricultural product.
- 6 (2) The identity of the producer of the agricultural product.
- 7 (3) The manner and method of production of the agricultural
8 product.

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

13 891. In lieu of prosecution, the secretary, or a county
14 agricultural commissioner under the authority of the secretary,
15 may levy a civil penalty against a person or entity that violates this
16 chapter in an amount not less than five hundred dollars (\$500) and
17 not more than five thousand dollars (\$5,000) for each violation.
18 The amount of the penalty assessed for each violation shall be
19 based upon the scope of the violation, the seriousness of the
20 deception, and the impact of the penalty on the violator, including
21 the deterrent effect on future violations. Subdivision (e) of Section
22 43003 shall apply to a fine or civil penalty levied pursuant to this
23 section.

24 892. Any action taken against a person by the secretary or a
25 county agricultural commissioner pursuant to Section 890 or 891
26 shall not preclude the secretary or a county agricultural
27 commissioner from taking a separate action for a violation of a
28 provision of this code that is specific to a particular license or
29 permit.

30 893. (a) All civil penalties collected pursuant to this chapter
31 by the secretary shall be deposited in the Direct Agricultural
32 Marketing Penalty Account, which is hereby created in the
33 Department of Food and Agriculture Fund, and shall be used to
34 conduct investigations and enforcement actions upon complaints
35 filed or pursuant to information received that results in the
36 investigation of a violation of Section 890. Money deposited
37 pursuant to this chapter also may be used to contract with county
38 agricultural commissioners for services that further the purposes
39 of this chapter, and may be used for expenses incurred by county
40 agricultural commissioners for investigative and enforcement

1 actions conducted pursuant to this chapter. Notwithstanding Section
2 13340 of the Government Code, all moneys deposited pursuant to
3 this chapter shall be continuously appropriated to the department
4 without regard to fiscal year for purposes of this chapter.

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

8 894. An action brought by the state or a county pursuant to
9 Section ~~892 or 893~~ 891 or 892 for a violation of Section 890 shall
10 preclude a concurrent proceeding by the state or a county for the
11 same act.

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

14 43100. (a) The terms “California grown,” “California-grown,”
15 and similar terms with identical connotations shall be used in the
16 labeling or advertising of agricultural products as follows:

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

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

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

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

35 47000. The Legislature finds and declares all of the following
36 with regard to the direct marketing of agricultural products:

37 (a) Direct marketing of agricultural products benefits the
38 agricultural community and the consumer by, among other things,
39 providing an alternative method for growers to sell their products

1 while benefiting the consumer by supplying quality produce at
2 reasonable prices.

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

6 (c) The direct marketing potential of a wide variety of
7 California-produced agricultural products should be maximized
8 and encouraged.

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

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

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

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

28 (h) A regulatory scheme should be developed that provides the
29 flexibility that will make direct marketing a viable marketing
30 system.

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

37 (j) The department is encouraged to establish an ad hoc advisory
38 committee to assist the department in establishing regulations
39 affecting direct marketing of products and to advise the secretary
40 in all matters pertaining to direct marketing.

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

3 47000.5. The following definitions apply to this chapter, unless
4 otherwise specified:

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

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

30 (c) "Producer" means a person, partnership, corporation, or an
31 otherwise legally formed farm or ranch that produces agricultural
32 products by the practice of the agricultural arts upon land that the
33 person or entity owns, rents, leases, sharecrops, or otherwise
34 controls and has the documented legal right to possession. A person
35 or entity that rents, leases, or otherwise acquires the right to
36 possession of property essentially only for or limited to the period
37 of the harvest season of the agricultural products produced on that
38 property shall not be considered a producer under the provisions
39 of this chapter.

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

3 47001. (a) The secretary may adopt regulations to encourage
4 the direct sale by farmers to the public of all types of California
5 agricultural products.

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

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

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

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

30 47002. California farmers registered or certified pursuant to
31 this chapter as direct marketing producers may transport for sale
32 and sell California-grown fresh fruits, nuts, and vegetables that
33 they produce, directly to the public, and shall be exempt from size,
34 standard pack, container, and labeling requirements at an outlet or
35 location operated by an individual, organization, or entity that is
36 regulated pursuant to this chapter or is recognized by a regulation
37 adopted pursuant to Section 47001 and is otherwise authorized by
38 local ordinances, subject to the following conditions:

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

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

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

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

- 12 (1) Consumers who are end users.
- 13 (2) Individuals, organizations, or entities that subsequently sell
14 the produce directly to end users.
- 15 (3) Individuals, organizations, or entities that distribute the
16 produce directly to end users at no cost to those end users.

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

23 SEC. 7. Section 47004 of the Food and Agricultural Code is
24 repealed.

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

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

31 (b) The operator of a certified farmers’ market shall establish
32 a clearly defined marketing area where only agricultural products
33 may be sold. Only the producer or the lawful authorized
34 representative of the producer may sell agricultural products within
35 the area defined as a certified farmers’ market. Sales of agricultural
36 products purchased from another individual or entity shall not
37 occur within a certified farmers’ market, and an agricultural product
38 producer or product dealer shall not sell his or her agricultural
39 products to another individual or entity with the understanding or
40 knowledge that the products are intended to be resold in a certified

1 farmers’ market in violation of this chapter or the regulations
2 adopted pursuant to this chapter. Every producer selling within a
3 certified farmers’ market shall comply with Section 47020.

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

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

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

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

1 (d) The representations required pursuant to subdivision (c)
2 shall be subject to the provisions and penalties specified in Section
3 890.

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

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

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

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

35 SEC. 9. Section 47004.1 of the Food and Agricultural Code is
36 repealed.

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

1 47010. (a) The secretary shall establish a committee that shall
2 be known as the Certified Farmers' Market Advisory Committee.
3 The primary goals of the committee shall be all of the following:

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

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

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

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

27 (c) The secretary shall make an effort to include members who
28 represent geographical diversity and diverse agricultural products.

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

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

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

38 47011. The Certified Farmers' Market Advisory Committee
39 shall be advisory to the secretary on matters pertaining to direct
40 marketing of agricultural products at certified farmers' markets

1 and may make recommendations, including, but not limited to, the
2 following:

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

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

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

11 (d) Program and enforcement fees collected pursuant to Section
12 47021.

13 (e) Statewide review of certified farmers' market promotion
14 and enforcement actions.

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

17 (g) Alternative strategies for certification and investigation
18 methodology, and methods for industry self-regulation and
19 commission formation.

20 SEC. 12. Section 47012 of the Food and Agricultural Code is
21 repealed.

22 SEC. 13. Section 47020 of the Food and Agricultural Code is
23 repealed.

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

26 47020. (a) An operator of a certified farmers' market shall
27 annually register with the department by applying for and obtaining
28 a certificate from the county agricultural commissioner's office in
29 the county in which the certified farmers' market is located. The
30 application shall include the times and location of the market, the
31 name and contact information for the operator of the market, and
32 the agent for service of process for the operator. Upon approval
33 of an application, the county agricultural commissioner shall issue
34 to the operator a certified farmers' market certificate.

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

1 county agricultural commissioner shall provide a schedule of fees
2 that reflects an estimate of expenses for inspections and may charge
3 a certification and inspection fee equal to the actual expenses
4 incurred.

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

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

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

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

1 commissioner shall provide to the producer a schedule of fees that
2 reflects an estimate of expenses for certification or inspection at
3 the time of application or renewal or before any needed additional
4 verification inspection, and may charge a certification and
5 inspection fee equal to the actual expenses incurred.

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

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

17 47021. (a) Every operator of a certified farmers' market shall
18 remit to the department, within 30 days after the end of each
19 quarter, a fee equal to the number of vendors participating and
20 selling goods under the authority and management of the certified
21 farmers' market operator participating on each market day for the
22 entire previous quarter. The fee shall be two dollars (\$2) for each
23 vendor whose products were presented for sale on each market
24 day. A certified farmers' market operator may directly recover all
25 or part of the fee from the participating vendors. An operator of a
26 certified farmers' market *located in a county with a population of*
27 *less than 400,000* that allows only vendors of agricultural products
28 produced by producers on land located in the same county as the
29 certified farmers' market may petition the secretary for a ~~reduction~~
30 ~~in the vendor fee.~~ *vendor fee of one dollar (\$1)*. The petition shall
31 include a statement of verification of the information upon which
32 the petition is based by the county agricultural commissioner in
33 the county where certified farmers' market is located.

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

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

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

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

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

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

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

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

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

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

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

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

39 However, if the Commission on State Mandates determines that
40 this act contains other costs mandated by the state, reimbursement

- 1 to local agencies and school districts for those costs shall be made
- 2 pursuant to Part 7 (commencing with Section 17500) of Division
- 3 4 of Title 2 of the Government Code.

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