

**Assembly Bill No. 1871**

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Passed the Assembly August 25, 2014

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*Chief Clerk of the Assembly*

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Passed the Senate August 21, 2014

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*Secretary of the Senate*

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This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2014, at \_\_\_\_\_ o'clock \_\_\_\_M.

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*Private Secretary of the Governor*

## CHAPTER \_\_\_\_\_

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, 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 of Food and Agriculture 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 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.

Appropriation: yes.

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

SECTION 1. Chapter 9 (commencing with Section 890) is added to Part 1 of Division 1 of the Food and Agricultural Code, to read:

CHAPTER 9. FALSE, DECEPTIVE, OR MISLEADING MARKETING

890. (a) It is unlawful for any person or entity, or employee or agent of that person or entity, to make any statement, representation, or assertion orally, by public statement, advertisement, signage, or by any means that relates to the sale or availability of agricultural products that is false, deceptive, or misleading regarding any of the following:

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

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

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

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

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

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

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

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

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

(1) The terms “California grown,” “California-grown,” and similar terms with identical connotations may be used 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) "Agricultural product" means a fresh or processed product produced in California, including fruits, nuts, vegetables, herbs, mushrooms, dairy, shell eggs, honey, pollen, unprocessed bees wax, propolis, royal jelly, flowers, grains, nursery stock, livestock

meats, poultry meats, rabbit meats, and fish, including shellfish that is produced under controlled conditions in waters located in California. Products that are characterized as services, arts, crafts, bakery, candies, soaps, balms, perfumes, cosmetics, pottery, clothing, fabrics, pastas, compost, fertilizers, candles, ceramics, foraged foods, and types of wares are not agricultural products for purposes of this chapter. A product that combines an agricultural product with a nonagricultural product or service in a manner that materially increases the purchase price of the product shall disqualify the product from being sold as an agricultural product for purposes of this chapter.

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

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

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

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

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

(c) The secretary may enter into a cooperative agreement with a county agricultural commissioner to carry out the provisions of this chapter, including, but not limited to, administration, investigations, inspections, registrations, and assistance pertaining to direct marketing producers and outlets. Compensation under the cooperative agreement shall be paid from assessments and fees collected and deposited pursuant to this chapter and shall provide reimbursement to the county agricultural commissioner for associated costs exclusive of the costs of certification and minimum inspections required pursuant to Section 47020.

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

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

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

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

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

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

(d) If a farmer selling produce pursuant to this section implements any exemption to size, standard pack, container, or

labeling requirements as provided by this section, those sales may only be conducted as direct sales to any of the following:

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

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

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

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

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

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

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

- (1) Post a conspicuous sign or banner at the point of sale that states the name of the farm or ranch, the county where the farm or ranch maintains the production grounds that produced the products being offered for sale is located, and a statement that "We

Grew What We Are Selling” or “We Raised What We Are Selling” or “We Grow What We Sell” or similar phrases that clearly represent that the farm or ranch is only selling agricultural products that they themselves have grown or raised on California land that they possess or control. Product sales by different farms at the same vendor stand shall separate the products from each farm or ranch and correspondingly post the required sign or banner in direct relationship with the sales display of the products produced by each farm.

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

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

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

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

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

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

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

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

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

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

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

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

(3) Ensure that honest and fair marketing of products occurs within certified farmers' markets and within an ancillary vending

activity under the operation and control of a certified farmers' market operator.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) (1) (A) Before selling at a certified farmers' market, a producer shall register with the department by applying for and obtaining a certificate from the county agricultural commissioner's office in the county in which the producer's land or facility is located. The application shall include a declaration by the producer that he or she is knowledgeable of and intends to produce in

accordance with good agricultural practices, as outlined in the Small Farm Food Safety Guidelines published by the department. Upon approval of an application, the county agricultural commissioner shall issue to the producer a certified producer's certificate.

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

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

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

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

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

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

47021. (a) Every operator of a certified farmers' market shall remit to the department, within 30 days after the end of each quarter, a fee equal to the number of vendors 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. The fee shall be two dollars (\$2) for each vendor whose products were presented for sale on each market day. A certified farmers' market operator may directly recover all or part of the fee from the participating vendors. An operator of a certified farmers' market located in a county with a population of less than 400,000 that allows only vendors of agricultural products produced by producers on land located in the same county as the certified farmers' market may petition the secretary for a vendor fee of one dollar (\$1). The petition shall include a statement of verification of the information upon which the petition is based by the county agricultural commissioner in the county where the certified farmers' market is located.

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

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

- (1) The coordination of the Certified Farmers' Market Advisory Committee or any ad hoc direct marketing advisory committee.
- (2) The evaluation of county enforcement actions and assistance with regard to multiple county enforcement problems.

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

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

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

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

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

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

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

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

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



























Approved \_\_\_\_\_, 2014

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*Governor*