

Assembly Bill No. 862

Passed the Assembly August 24, 2015

Chief Clerk of the Assembly

Passed the Senate August 20, 2015

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2015, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 405, 409, 410, 5918, 47004, and 47020 of the Food and Agricultural Code, relating to agriculture.

LEGISLATIVE COUNSEL’S DIGEST

AB 862, Committee on Agriculture. Agriculture.

(1) Existing law authorizes the Department of Food and Agriculture, with the prior approval of the Department of Fish and Wildlife and the State Department of Health Care Services, to reproduce or distribute biological control organisms that are not detrimental to the public health and safety that are known to be useful in reducing or preventing plant or animal damage due to pests or diseases.

This bill would substitute the State Department of Public Health for the State Department of Health Care Services in these provisions.

(2) Existing law authorizes the Department of Food and Agriculture, by rule or regulation, to provide for the issuance and renewal on a 2-year basis of licenses, certificates of registration, or other indicia of authority issued pursuant to the Food and Agricultural Code by the department or any agency in the department, and to set the fees for the issuance or renewal of those licenses, certificates of registration, or other indicia.

This bill would instead specify that those licenses, certificates of registration, or other indicia of authority issued pursuant to the Food and Agricultural Code are those issued by the department or any division, office, or other entity within the department.

(3) Existing law specifies that it is the intent of the Legislature that the department, in cooperation with appropriate county officials and industry representatives, develop mutually satisfactory sources of nonstate funding to augment budget programs in the areas of county agricultural commissioners and weights and measures.

This bill would clarify that provision to specify that it is the intent of the Legislature that the department develop mutually satisfactory sources of nonstate funding to augment budget

programs in the areas of county agricultural commissioners and county sealers of weights and measures.

(4) Under existing law, certified farmers' markets are California agricultural product point-of-sale locations that are registered and operated in accordance with specified provisions. Existing law requires an operator of a certified farmers' market to establish a clearly defined marketing area where only agricultural products may be sold. Existing law prohibits 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 from allowing 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. Under existing law, a violation of these provisions is an infraction or misdemeanor, as specified.

This bill would add cultivated mushrooms and herbs to the list of items that 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 is prohibited from selling within those sales activity or vending event or marketing areas. By changing the definition of a crime, this bill would impose a state-mandated local program.

Existing law requires a certified farmers' market operator or producer to annually register with the Department of Food and Agriculture by applying for and receiving a certificate from a county agricultural commissioner. Existing law requires a producer farming fruit, vegetables, nuts, herbs, and similar crops, once certified, to annually submit information requested by the department about the specific crops that the producer will harvest or intends to harvest for sale directly to the public.

This bill would require a producer of these crops to submit this information to the county agricultural commissioner's office in the county in which the producer's land or facility is located as part of obtaining or renewing a certified producer certificate. By imposing a new duty on county agricultural commissioners, the bill would impose a state-mandated local program.

(5) Existing law creates in the Department of Food and Agriculture the California Citrus Pest and Disease Prevention

Committee and provides for its continuation, and that of the California Citrus Pest and Disease Prevention Program, every 4 years subject to a referendum of the citrus producers on or before June 30, 2013, and every 4 years thereafter. Pursuant to this referendum the department has extended the citrus pest and disease prevention program for an additional 4 years.

Existing law requires the committee to reimburse the Secretary of Food and Agriculture for all reasonable expenditures incurred by the secretary in carrying out his or her duties and responsibilities pursuant to the citrus pest and disease prevention program, including the costs of implementing and administering the administrative, enforcement, and regulatory recommendations of the statewide work plan developed by the committee.

This bill would require the committee to reimburse the secretary for all expenditures incurred by the secretary in carrying out his or her duties and responsibilities pursuant to the program.

(6) 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.

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

SECTION 1. Section 405 of the Food and Agricultural Code is amended to read:

405. (a) With the prior approval of the Department of Fish and Wildlife and the State Department of Public Health, the department may reproduce or distribute biological control organisms that are not detrimental to the public health and safety that are known to be useful in reducing or preventing plant or animal damage due to pests or diseases.

(b) The department shall not engage in the production of beneficial organisms when those organisms are available in sufficient amounts for purchase from commercial sources.

SEC. 2. Section 409 of the Food and Agricultural Code is amended to read:

409. (a) Notwithstanding any other law, the department by rule or regulation may provide for the issuance and renewal on a two-year basis of licenses, certificates of registration, or other indicia of authority issued pursuant to this code by the department or any division, office, or other entity within the department.

(b) The department may, by rule or regulation, set the fee for a two-year license, certificate of registration, or other indicia, not to exceed twice the annual fee for issuance or renewal set by statute.

SEC. 3. Section 410 of the Food and Agricultural Code is amended to read:

410. It is the intent of the Legislature that the Department of Food and Agriculture, in cooperation with appropriate county officials and industry representatives, develop mutually satisfactory sources of nonstate funding to augment budget programs in the areas of county agricultural commissioners and county sealers of weights and measures.

SEC. 4. Section 5918 of the Food and Agricultural Code is amended to read:

5918. (a) The committee shall reimburse the secretary for all expenditures incurred by the secretary in carrying out his or her duties and responsibilities pursuant to this article, including the costs of implementing and administering the administrative, enforcement, and regulatory recommendations of the statewide work plan developed by the committee.

(b) The secretary shall not seek reimbursement for costs that exceed expenditures developed by the committee without first notifying the committee of the additional expenditures.

SEC. 5. Section 47004 of the Food and Agricultural Code is amended 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, cultivated mushrooms, herbs, 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. 6. Section 47020 of the Food and Agricultural Code is amended 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) As part of obtaining or renewing a certified producer certificate, a producer farming fruit, vegetables, nuts, herbs, and

similar crops shall annually submit to the county agricultural commissioner's office in the county in which the producer's land or facility is located 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. 7. 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 _____, 2015

Governor