

ASSEMBLY BILL

No. 1135

Introduced by Committee on Agriculture

February 27, 2015

An act to amend Sections 47004 and 47020 of the Food and Agricultural Code, relating to agricultural products.

LEGISLATIVE COUNSEL'S DIGEST

AB 1135, as introduced, Committee on Agriculture. Agricultural products: certified farmers' markets.

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.

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: no. Fiscal committee: yes.
State-mandated local program: yes.

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

- 1 SECTION 1. Section 47004 of the Food and Agricultural Code
- 2 is amended to read:
- 3 47004. (a) Certified farmers’ markets are California
- 4 agricultural product point of sale locations that are registered under
- 5 the provisions of Section 47020 and operated in accordance with
- 6 this chapter and regulations adopted pursuant to this chapter.
- 7 (b) The operator of a certified farmers’ market shall establish
- 8 a clearly defined marketing area where only agricultural products
- 9 may be sold. Only the producer or the lawful authorized
- 10 representative of the producer may sell agricultural products within

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

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

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

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

1 the identity of the facility where the dairy products were
2 manufactured or processed.

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

6 (d) The representations required pursuant to subdivision (c)
7 shall be subject to the provisions and penalties specified in Section
8 890.

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

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

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

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

1 SEC. 2. Section 47020 of the Food and Agricultural Code is
2 amended to read:

3 47020. (a) An operator of a certified farmers' market shall
4 annually register with the department by applying for and obtaining
5 a certificate from the county agricultural commissioner's office in
6 the county in which the certified farmers' market is located. The
7 application shall include the times and location of the market, the
8 name and contact information for the operator of the market, and
9 the agent for service of process for the operator. Upon approval
10 of an application, the county agricultural commissioner shall issue
11 to the operator a certified farmers' market certificate.

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

22 (c) (1) (A) Before selling at a certified farmers' market, a
23 producer shall register with the department by applying for and
24 obtaining a certificate from the county agricultural commissioner's
25 office in the county in which the producer's land or facility is
26 located. The application shall include a declaration by the producer
27 that he or she is knowledgeable of and intends to produce in
28 accordance with good agricultural practices, as outlined in the
29 Small Farm Food Safety Guidelines published by the department.
30 Upon approval of an application, the county agricultural
31 commissioner shall issue to the producer a certified producer's
32 certificate.

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

37 ~~Once certified,~~ *As part of obtaining or renewing a certified*
38 *producer certificate,* a producer farming fruit, vegetables, nuts,
39 herbs, and similar crops shall annually submit *to the county*
40 *agricultural commissioner's office in the county in which the*

1 *producer's land or facility is located* information requested by the
2 department about the specific crops that he or she will harvest or
3 intends to harvest for sale directly to the public. The secretary may
4 promulgate regulations specifying the information a producer is
5 required to submit.

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

26 (d) Renewal of a certified farmers' market certificate or certified
27 producer's certificate may be denied by either the department or
28 a county agricultural commissioner if a certified farmers' market
29 or a producer is delinquent in the payment of the required state fee
30 or a county certification and inspection fee or administrative civil
31 penalty authorized pursuant to this chapter. The certificate may
32 be eligible for renewal when all outstanding balances and
33 associated penalties or administrative fines have been paid to the
34 department or the respective county or counties.

35 SEC. 3. No reimbursement is required by this act pursuant to
36 Section 6 of Article XIII B of the California Constitution for certain
37 costs that may be incurred by a local agency or school district
38 because, in that regard, this act creates a new crime or infraction,
39 eliminates a crime or infraction, or changes the penalty for a crime
40 or infraction, within the meaning of Section 17556 of the

1 Government Code, or changes the definition of a crime within the
2 meaning of Section 6 of Article XIII B of the California
3 Constitution.

4 However, if the Commission on State Mandates determines that
5 this act contains other costs mandated by the state, reimbursement
6 to local agencies and school districts for those costs shall be made
7 pursuant to Part 7 (commencing with Section 17500) of Division
8 4 of Title 2 of the Government Code.

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