

AMENDED IN ASSEMBLY APRIL 21, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1135**

---

---

**Introduced by Committee on Agriculture**

February 27, 2015

---

---

An act to amend Sections ~~47004~~ 5918, 47004, and 47020 of the Food and Agricultural Code, relating to agricultural products.

LEGISLATIVE COUNSEL'S DIGEST

AB 1135, as amended, Committee on Agriculture. Agricultural products: ~~certified farmers' markets:~~ *products.*

~~Under~~

(1) *Under* existing law, certified farmers' markets are California agricultural product ~~point-of-sale~~ *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.

*(2) 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.*

~~The~~

*(3) 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 5918 of the Food and Agricultural Code*  
2 *is amended to read:*

3     5918. (a) The committee shall reimburse the secretary for all  
4 ~~reasonable~~ expenditures incurred by the secretary in carrying out  
5 his or her duties and responsibilities pursuant to this article,  
6 including the costs of implementing and administering the  
7 administrative, enforcement, and regulatory recommendations of  
8 the statewide work plan developed by the committee.

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

12     ~~SECTION 1.~~

13     **SEC. 2.** *Section 47004 of the Food and Agricultural Code is*  
14 *amended to read:*

15     47004. (a) Certified farmers' markets are California  
16 agricultural product ~~point-of-sale~~ *point-of-sale* locations that are  
17 registered under the provisions of Section 47020 and operated in  
18 accordance with this chapter and regulations adopted pursuant to  
19 this chapter.

20     (b) The operator of a certified farmers' market shall establish  
21 a clearly defined marketing area where only agricultural products  
22 may be sold. Only the producer or the lawful authorized  
23 representative of the producer may sell agricultural products within  
24 the area defined as a certified farmers' market. Sales of agricultural  
25 products purchased from another individual or entity shall not  
26 occur within a certified farmers' market, and an agricultural product  
27 producer or product dealer shall not sell his or her agricultural  
28 products to another individual or entity with the understanding or  
29 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, or, in the case of dairy products,  
35 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, cultivated  
9 mushrooms, herbs, and flowers by vendors selling within those  
10 sales activity or vending event or 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. 2.~~

36 *SEC. 3.* Section 47020 of the Food and Agricultural Code is  
37 amended to read:

38 47020. (a) An operator of a certified farmers' market shall  
39 annually register with the department by applying for and obtaining  
40 a certificate from the county agricultural commissioner's office in

1 the county in which the certified farmers' market is located. The  
2 application shall include the times and location of the market, the  
3 name and contact information for the operator of the market, and  
4 the agent for service of process for the operator. Upon approval  
5 of an application, the county agricultural commissioner shall issue  
6 to the operator a certified farmers' market certificate.

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

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

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

32 (2) As part of obtaining or renewing a certified producer  
33 certificate, a producer farming fruit, vegetables, nuts, herbs, and  
34 similar crops shall annually submit to the county agricultural  
35 commissioner's office in the county in which the producer's land  
36 or facility is located information requested by the department about  
37 the specific crops that he or she will harvest or intends to harvest  
38 for sale directly to the public. The secretary may promulgate  
39 regulations specifying the information a producer is required to  
40 submit.

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

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

30 ~~SEC. 3.~~

31 *SEC. 4.* No reimbursement is required by this act pursuant to  
32 Section 6 of Article XIII B of the California Constitution for certain  
33 costs that may be incurred by a local agency or school district  
34 because, in that regard, this act creates a new crime or infraction,  
35 eliminates a crime or infraction, or changes the penalty for a crime  
36 or infraction, within the meaning of Section 17556 of the  
37 Government Code, or changes the definition of a crime within the  
38 meaning of Section 6 of Article XIII B of the California  
39 Constitution.

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

O