

ASSEMBLY BILL

No. 1810

Introduced by Assembly Member Levine

February 8, 2016

An act to amend Sections 52288, 52311, 52451, and 52486 of, and to add Sections 52258.1 and 52258.2 to, the Food and Agricultural Code, relating to seed.

LEGISLATIVE COUNSEL'S DIGEST

AB 1810, as introduced, Levine. California Seed Law: exclusions: seed microenterprises and noncommercial seed sharing.

The California Seed Law (the seed law) regulates seed sold in California, and generally requires agricultural and vegetable seed that is sold in the state to be labeled in accordance with specified provisions. Specified penalties are prescribed for violating the provisions of the seed law.

This bill would exclude from the labeling requirements of the seed law seed distributed through noncommercial seed sharing activities, and would also exclude seed sold by a seed microenterprise, which would be defined as a person or farm that grows and sells up to \$5,000 annually of agricultural, flower, or vegetable seed. The bill would revise applicable penalty provisions to exclude a seed microenterprise that sells only untreated and uncertified seed, and the collection, storage, or distribution of agricultural, flower, or vegetable seed for noncommercial purposes. The bill would also define the term “sell” for purposes of the seed law, and would state that the Legislature declares that the seed law is not intended to regulate seed microenterprises or noncommercial seed sharing, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

1 SECTION 1. Section 52258.1 is added to the Food and
2 Agricultural Code, to read:
3 52258.1. “Seed microenterprise” means any person or farm
4 that grows and sells within this state up to five thousand dollars
5 (\$5,000) annually of agricultural, flower, or vegetable seed.
6 SEC. 2. Section 52258.2 is added to the Food and Agricultural
7 Code, to read:
8 52258.2. “Sell” includes to offer, expose, or possess for sale,
9 and to commercially exchange, barter, or trade.
10 SEC. 3. Section 52288 of the Food and Agricultural Code is
11 amended to read:
12 52288. The Legislature hereby declares that it is the intent of
13 this chapter to enable the seed industry, with the aid of the state,
14 to ensure that seed purchased by the consumer-buyer is properly
15 identified and of the quality and amount represented on the tag or
16 label. The Legislature further declares that the success of
17 agriculture and the seed industry in this state depends upon the
18 continued commitment to industry-funded research in order to
19 improve the quality and variety of seed available to the
20 consumer-buyer. *The Legislature further declares that this chapter*
21 *is not intended to regulate seed microenterprises or noncommercial*
22 *seed sharing, including through seed libraries, seed exchanges,*
23 *or other informal and formal noncommercial seed sharing*
24 *activities.*
25 SEC. 4. Section 52311 of the Food and Agricultural Code is
26 amended to read:
27 52311. A person is not subject to the penalties ~~which~~ *that* are
28 prescribed by this chapter in any of the following cases:
29 (a) For selling in this state any agricultural or vegetable seed
30 ~~which~~ *that* is incorrectly labeled or represented as to kind, variety,
31 or type, ~~which~~ ~~seed~~ cannot be identified by examination of it,
32 unless ~~he~~ *the person* has failed to obtain an invoice or grower’s
33 declaration ~~which~~ *that* gives the commonly accepted name of the
34 kind, kind and variety, or kind and type, and to take ~~such~~ other

1 precautions as may be necessary to insure the identity to be that
2 which is stated.

3 (b) As to any matter ~~which~~ *that* is required by Article 8
4 (commencing with Section 52451) ~~of this chapter, 52451~~, for
5 selling ~~such the~~ seed in original unopened sealed packages ~~which~~
6 *that* are fully labeled by another dealer, unless ~~he the~~ *the person* has
7 failed to have ~~such the~~ seed retested and relabeled as to the
8 percentage of germination within the period ~~which~~ *that* is
9 prescribed by Section 52481, or unless ~~he the~~ *the person* has failed to
10 correct the label after notice that ~~such the~~ label has been found to
11 be incorrect.

12 (c) For shipping, delivering, transporting, or selling within this
13 state any agricultural or vegetable seed ~~which~~ *that* has a false
14 labeling as to percentage of germination or hard seeds, unless ~~he~~
15 *the person* has first been given an opportunity by the ~~director~~
16 *secretary* to be heard. This exemption does not, however, relieve
17 any person from the obligation, upon order of an enforcement
18 official, to stop further sale of any seed ~~which~~ *that* is found to be
19 incorrectly labeled as to germination, nor does it exempt such seed
20 from seizure pursuant to this chapter.

21 (d) *For operating a seed microenterprise that sells only*
22 *untreated and uncertified seed.*

23 (e) *For collecting, storing, or distributing in this state any*
24 *labeled or unlabeled agricultural, flower, or vegetable seed for*
25 *noncommercial purposes.*

26 SEC. 5. Section 52451 of the Food and Agricultural Code is
27 amended to read:

28 52451. This article does not apply to any of the following:

29 (a) Seed or grain that is not intended for sowing purposes.

30 (b) Seed that is in storage in, or consigned to, a seed cleaning
31 or conditioning establishment for cleaning or conditioning.

32 (c) Seed or grain that is transported without transfer of title for
33 sowing on land that is owned by the person by whom the seed or
34 grain was produced.

35 (d) Seed that is weighed and packaged in the presence of the
36 purchaser from a bulk container, if the container is properly and
37 conspicuously labeled as provided by this chapter.

38 (e) Seed or grain that is transported from one warehouse to
39 another without transfer of title or in storage in a warehouse, if
40 each container is plainly marked or identified with a lot number

1 or other lot identification and the label information that is required
2 by this article is available at the request of an enforcing officer.

3 (f) *Seed distributed in the state through formal or informal*
4 *noncommercial seed sharing activities, including, but not limited*
5 *to, seed libraries and seed exchanges.*

6 (g) *Seed sold by a seed microenterprise.*

7 SEC. 6. Section 52486 of the Food and Agricultural Code is
8 amended to read:

9 52486. Sections 52481, 52482, and 52484 of this article do not
10 apply to any *of the following*:

11 (a) *Any common carrier in respect to any seed*~~which~~ *that is*
12 *transported or delivered for transportation in the ordinary course*
13 *of its business as a carrier if*~~such~~ *the carrier is not engaged in*
14 *conditioning or merchandising seed*~~which~~ *that is subject to the*
15 *provisions of this chapter.*

16 (b) *A seed microenterprise that sells only untreated and*
17 *uncertified seed.*

18 (c) *Noncommercial seed sharing.*