

AMENDED IN ASSEMBLY APRIL 5, 2016
AMENDED IN ASSEMBLY MARCH 17, 2016
CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1826

Introduced by Assembly Member Mark Stone

February 8, 2016

An act to repeal and add Chapter 10 (commencing with Section 46000) of Division 17 of the Food and Agricultural Code, and to amend Sections 110810, 110812, 110860, ~~110920~~, and ~~110925~~ *110875*, and *110920* of, to repeal Section 110870 of, and to repeal and add Sections ~~110815~~, ~~110875~~, *110815* and 110958 of, the Health and Safety Code, relating to organic products.

LEGISLATIVE COUNSEL'S DIGEST

AB 1826, as amended, Mark Stone. Organic products.

Existing law, the California Organic Products Act of 2003 (the act), requires the Secretary of Food and Agriculture, county agricultural commissioners under the supervision and direction of the secretary, and the Director of the State Department of Public Health to enforce federal regulations governing the production, labeling, and marketing of organic products, as specified. The act requires certain persons engaged in the production, processing, or handling of organic products to annually register and pay a fee, as specified, and imposes penalties for specified violations of the act.

Existing federal law establishes the National Organic Program which requires operations that produce or handle organic agricultural products to comply with federal organic standards and be certified by a certifying agent, as specified.

This bill would revise and recast the California Organic Products Act of 2003 as the California Organic Food and Farming Act. The bill would specify that a person certified pursuant to the National Organic Program shall be deemed registered for purposes of the ~~state organic program~~ *State Organic Program* and that those operations do not require additional registration under the state law. The bill would require all other persons engaged in the production or handling of raw agricultural products sold as organic and retailers engaged in the production and processing of organic products to register with the county agricultural commissioner in the county of principal operation. The bill would require the secretary, in consultation with the California Organic Products Advisory Committee, to establish a registration fee for producers, handlers, retail food establishments, and certifying ~~agents,~~ *agencies*, and would authorize the secretary to establish an annual fee for the purpose of funding activities authorized under the act based on gross annual organic sales. To the extent this bill would impose additional duties on county agricultural commissioners, the bill would impose a state-mandated local program.

The bill would require the secretary to establish a memorandum of understanding with the director to assist in administering the ~~state organic program,~~ *State Organic Program*, would authorize the secretary to establish procedures for and conduct specified activities to supplement enforcement of National Organic Program standards, as specified, and to use ~~state organic program~~ *State Organic Program* funds to conduct specified activities.

Existing law requires the director to enforce regulations promulgated by the National Organic Program relating to organic products.

This bill would state that certification under the National Organic Program shall be deemed registration for purposes of the ~~state organic program.~~ *The bill would require fees and penalties collected pursuant to the act for those purposes to be deposited into a separate subaccount of the Food Safety Account rather than the General Fund.* *State Organic Program.* The bill would, *among other things*, revise information that the director is required to annually compile, publish, and submit to the California Organic Products Advisory Committee.

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, if the Commission on State Mandates determines that the bill contains costs mandated by the state,

reimbursement for those costs shall be made pursuant to these statutory provisions.

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. The Legislature finds and declares all of the
2 following:

3 (a) ~~The state organic program~~ *State Organic Program* was first
4 established under the California Organic Products Act of 1990 and
5 amended in the California Organic Products Act of 2003. ~~The state~~
6 ~~organic program~~ *State Organic Program* was developed before
7 and during the development of federal organic standards. Today,
8 a robust federal organic certification and enforcement program
9 exists.

10 (b) As a result of ~~the state organic program~~, *State Organic*
11 *Program*, California certified organic producers pay more fees,
12 are subject to duplicate registration and extra documentation, and
13 are required to comply with more regulation than producers outside
14 of California to use the same organic label.

15 (c) As a result of ~~the state organic program~~, *State Organic*
16 *Program*, the National Organic Program focuses its enforcement
17 funds outside of California, and it relies on ~~the state organic~~
18 ~~program's~~ *State Organic Program's* additional fees on California
19 producers to fund enforcement in California.

20 (d) The purpose of amending the existing law governing the
21 ~~state organic program~~ *State Organic Program* is to reform fees
22 and paperwork and to create a framework whereby state organic
23 program enforcement activities are designed to supplement
24 National Organic Program-funded enforcement in California.

25 SEC. 2. Chapter 10 (commencing with Section 46000) of
26 Division 17 of the Food and Agricultural Code is repealed.

27 SEC. 3. Chapter 10 (commencing with Section 46000) is added
28 to Division 17 of the Food and Agricultural Code, to read:

1 CHAPTER 10. CALIFORNIA ORGANIC FOOD AND FARMING ACT

2
3 Article 1. General Provisions

4
5 46000. (a) This chapter and Article 7 (commencing with
6 Section 110810) of Chapter 5 of Part 5 of Division 104 of the
7 Health and Safety Code shall be known and may be cited as the
8 California Organic Food and Farming Act.

9 (b) The secretary and county agricultural commissioners under
10 the supervision and direction of the secretary shall enforce
11 regulations adopted by the National Organic Program (NOP)
12 (Section 6517 of the federal Organic Foods Production Act of 1990
13 (7 U.S.C. Sec. 6501 et seq.)), and Article 7 (commencing with
14 Section 110810) of Chapter 5 of Part 5 of Division 104 of the
15 Health and Safety Code and this act applicable to any person selling
16 products as organic.

17 (c) This chapter shall be interpreted in conjunction with Article
18 7 (commencing with Section 110810) of Chapter 5 of Part 5 of
19 Division 104 of the Health and Safety Code and regulations
20 adopted by the National Organic Program (Section 6517 of the
21 federal Organic Foods Production Act of 1990 (7 U.S.C. Sec. 6501
22 et seq.)).

23 46001. For purposes of this act, the following terms have the
24 following meanings:

25 (a) “Accredited certification agency” means an entity accredited
26 by the United States Department of Agriculture to certify
27 operations as compliant with the federal organic standards.

28 (b) “Act” means the California Organic Food and Farming Act.

29 (c) “Categorical products” means categories of products of like
30 commodity such as apples and salad products, and does not require
31 variety specific information.

32 (d) “Certified operation” means a producer, handler, or retail
33 food establishment that is certified organic by an accredited
34 certification agency as authorized by the federal Organic Foods
35 Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.) and
36 implemented pursuant to the National Organic Program.

37 (e) “Data” means the information provided annually by persons
38 registered under the act, including certified organic acreage and
39 gross sales of certified organic products.

40 (f) “Department” means the State Department of Public Health.

- 1 (g) “Director” means the director and State Public Health Officer
2 for the State Department of Public Health.
- 3 (h) “Enforcement authority” means the governmental unit with
4 primary enforcement jurisdiction, as provided in Section 46022.
- 5 (i) “Exempt handler” means a handling operation that sells
6 agricultural products as “organic” but whose gross agricultural
7 income from organic sales totals five thousand dollars (\$5,000) or
8 less annually.
- 9 (j) “Exempt operation” means a production or handling operation
10 that sells agricultural products but is exempt from certification
11 under federal organic standards.
- 12 (k) “Exempt producer” means a production operation that sells
13 agricultural products as “organic” but whose gross agricultural
14 income from organic sales totals five thousand dollars (\$5,000) or
15 less annually.
- 16 (l) “Federal organic standards” means the federal regulations
17 governing production, labeling, and marketing of organic products
18 as authorized by the federal Organic Foods Production Act of 1990
19 (7 U.S.C. Sec. 6501 et seq.) and implemented pursuant to the
20 National Organic Program (7 C.F.R. Sec. 205 et seq.), and any
21 amendments to the federal act or regulations made subsequent to
22 the enactment of this chapter.
- 23 (m) “Handle” means to sell, process, or package agricultural
24 products. *Handle does not include a producer selling, transporting,*
25 *or delivering his or her crops or livestock to a handler.*
- 26 (n) “Handler” means any person engaged in the business of
27 handling agricultural products, but does not include final retailers
28 of agricultural products that do not process agricultural products.
- 29 (o) “Handling operation” means any operation or portion of an
30 operation, except final retailers of agricultural products that do not
31 process agricultural products that (1) receives or otherwise acquires
32 agricultural products, and (2) processes, packages, or stores
33 agricultural products.
- 34 (p) “Inspection” means the act of examining and evaluating a
35 production or handling operation to determine compliance with
36 state and federal law.
- 37 (q) “National Organic Program” or “NOP” means the National
38 Organic Program established pursuant to the federal Organic Foods
39 Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.) and the
40 regulations adopted for implementation.

1 (r) “Person” means any individual, firm, partnership, trust,
2 corporation, limited liability company, company, estate, public or
3 private institution, association, organization, group, city, county,
4 city and county, political subdivision of this state, other
5 governmental agency within the state, and any representative,
6 agent, or agency of any of the foregoing.

7 (s) “Processing” means cooking, baking, heating, drying, mixing,
8 grinding, churning, separating, extracting, cutting, fermenting,
9 eviscerating, preserving, dehydrating, freezing, or otherwise
10 manufacturing, and includes packaging, canning, jarring, or
11 otherwise enclosing food in a container.

12 (t) “Producer” means a person who engages in the business of
13 growing or producing food, fiber, feed, and other agricultural-based
14 consumer products.

15 (u) “Prohibited substance” means a substance the use of which
16 in any aspect of organic production or handling is prohibited or
17 not provided for in state or federal law.

18 (v) “Residue testing” means an official or validated analytical
19 procedure that detects, identifies, and measures the presence of
20 chemical substances, their metabolites, or degradation products in
21 or on raw or processed agricultural products.

22 (w) “Retail food establishment” means a restaurant, delicatessen,
23 bakery, grocery store, or any retail outlet with an in-store restaurant,
24 delicatessen, bakery, salad bar, or other eat-in or carry-out service
25 of processed or prepared raw and ready-to-eat-food.

26 (x) “Secretary” means the Secretary of Food and Agriculture.

27 (y) “*State Organic Program*” or “*SOP*” means a state program
28 that meets the requirements of Section 6506 of the federal Organic
29 Foods Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.), is
30 approved by the Secretary of the United States Department of
31 Agriculture, and is designed to ensure that a product that is sold
32 or labeled as organically produced under the federal Organic
33 Foods Production Act of 1990 is produced and handled using
34 organic methods.

35 (z)

36 (z) “USDA” means the United States Department of Agriculture.
37 46002. (a) All organic food or product regulations and any
38 amendments to those regulations adopted pursuant to the federal
39 Organic Foods Production Act of 1990 (7 U.S.C. Sec. 6501 et
40 seq.), that are in effect on the date this act is enacted or that are

1 adopted after that date, shall be the organic food and product
2 regulations of this state.

3 (b) The secretary may, by regulation, prescribe conditions under
4 which organic foods or other products not addressed by the
5 National Organic Program may be sold in this state.

6 (c) The purpose of the ~~state organic program~~ *State Organic*
7 *Program* shall be to do the following:

8 (1) Supplement the National Organic Program enforcement of
9 federal organic standards.

10 (2) Promote coordination of federal, state, and local agencies
11 in implementation of the National Organic Program.

12 (3) Expand, improve, and protect the production of organic
13 products.

14 (4) Assist operations in achieving organic certification.

15 (5) Provide technical assistance, education, outreach, and
16 guidance to the organic industry.

17 (d) The secretary may receive and expend state and federal
18 funds for activities authorized under this act.

19

20

Article 2. Administration

21

22 46011. (a) The secretary shall establish a memorandum of
23 understanding with the director to assist in the administration of
24 the ~~state organic program~~ *State Organic Program* and
25 responsibilities authorized under this act.

26 (b) The secretary may contract with county agricultural
27 commissioners to implement this act.

28 46012. (a) To the extent that funds are available, the secretary,
29 in consultation with the advisory committee established pursuant
30 to Section 46014, may establish procedures for and conduct the
31 following activities to supplement enforcement of NOP standards
32 in the state:

33 (1) Receive and investigate complaints filed by any person
34 concerning suspected acts of noncompliance with this act or federal
35 organic standards.

36 (2) Conduct periodic spot inspections.

37 (3) Conduct periodic prohibited ~~material~~ *substance* testing on
38 products labeled as organic to supplement the Department of
39 Pesticide Regulation residue testing program authorized in Section
40 12532, the pesticide residue monitoring program on processed

1 foods authorized by Article 1 (commencing with Section 110425)
2 of Chapter 5 of Part 5 of Division 104 of the Health and Safety
3 Code, and annual testing conducted by accredited certification
4 agencies.

5 (4) Conduct farmers' market inspections to supplement those
6 conducted under the certified farmers' market program pursuant
7 to Chapter 10.5 (commencing with Section 47000).

8 (b) Investigation, inspection, and prohibited material testing
9 reports shall be forwarded to the secretary or to NOP for any
10 required enforcement action.

11 (c) The secretary shall coordinate ~~state organic program~~ *State*
12 *Organic Program* activities authorized under this section with
13 other county and state licensing, registration, inspection, and fee
14 collection procedures applicable to registrants.

15 46013. To the extent funds are available, the secretary may, in
16 consultation with the advisory committee, use state organic
17 program funds to conduct the following activities:

18 (a) Expand, improve, and protect the production of organic
19 products.

20 (b) Assist operations in achieving organic certification, including
21 transition to organic.

22 (c) Provide technical assistance, education, outreach, and
23 guidance to the organic industry.

24 46014. (a) The secretary shall establish an advisory committee,
25 which shall be known as the California Organic Products Advisory
26 Committee, for the purpose of advising the secretary with respect
27 to his or her responsibilities under this act and Article 7
28 (commencing with Section 110810) of Chapter 5 of Part 5 of
29 Division 104 of the Health and Safety Code.

30 (b) An advisory committee established under this chapter shall
31 also advise the secretary, the University of California, and the
32 California State University on education, outreach, and technical
33 assistance for organic producers.

34 (c) The advisory committee shall be comprised of 16 members
35 as follows:

36 (1) Six members shall be producers, at least one of whom shall
37 be a producer of meat, fowl, fish, dairy products, or eggs.

38 (2) Two members shall be processors.

39 (3) One member shall be a wholesale distributor.

1 (4) One member shall be a representative of an accredited
2 certification agency operating in the state.

3 (5) One member shall be a consumer representatives.

4 (6) One member shall be an environmental representative.

5 (7) Two members shall be technical representatives with
6 scientific credentials related to agriculture or food science.

7 (8) One member shall be a food retail establishment
8 representative.

9 (9) One member shall be a representative from the University
10 of California or California State University system.

11 (d) Except for the ~~accredited certification agency~~, consumer,
12 environmental, technical, and University of California or California
13 State University system representatives, the members of the
14 advisory committee shall have derived a substantial portion of
15 their business income, wages, or salary as a result of services they
16 provide that directly result in the production, handling, processing,
17 or retailing of products sold as organic for at least three years
18 preceding their appointment to the advisory committee.

19 (e) The consumer and environmental representatives shall not
20 have a financial interest in the direct sales or marketing of the
21 organic product industry and shall be members or employees of
22 representatives of recognized nonprofit organizations whose
23 principal purpose is the protection of consumer health or protection
24 of the environment.

25 (f) The technical and University of California or California State
26 University system representatives shall not have a financial interest
27 in the production, handling, processing, or marketing of the organic
28 products industry. The technical and university system
29 representatives may be involved in organic research or technical
30 review providing they have no financial benefit from results of the
31 research project or technical review.

32 (g) (1) Each member of the committee may have an alternate
33 who satisfies the same requirements as the member.

34 (2) An alternate member shall serve at an advisory committee
35 meeting only in the absence of, and shall have the same powers
36 and duties as, the category whom he or she is representing as
37 alternate, except for duties and powers as an officer of the
38 committee. The number of alternates present who are not serving
39 in the capacity of a member shall not be considered in determining
40 a quorum.

1 (3) An alternate member may serve at an advisory committee
2 subcommittee meeting only in the absence of, and shall have the
3 same powers and duties as, the member whom he or she is
4 designated as alternate, except for duties and powers as a
5 subcommittee chairperson.

6 (h) The members of the advisory committee and their alternates
7 shall be reimbursed for the reasonable expenses actually incurred
8 in the performance of their duties, as determined by the advisory
9 committee and approved by the secretary. The secretary may
10 authorize payment of per diem to each attendee based on a
11 recommendation of the advisory committee.

12 (i) The secretary or his or her representative, the director or his
13 or her representative, the director of the Department of Pesticide
14 Regulation or his or her representative, and a county agricultural
15 commissioner may serve as ex officio members of the advisory
16 committee.

17 (j) The advisory committee shall review and make
18 recommendations to the secretary and the director on the state
19 organic program budget, including all fee revenues and penalties
20 assessed from exempt operations, accredited certification agencies,
21 and retail food establishments, and all expenses of the program.

22 (k) The advisory committee shall meet at least two times
23 annually and submit an annual report to the secretary that
24 summarizes issues for organic agriculture and food production in
25 the state.

26
27
28

Article 3. Registration

29 46021. (a) Except as specified in subdivision (b), a person
30 engaged in this state in the production or handling of raw
31 agricultural products sold as organic, and retailers that are engaged
32 in the production of products sold as organic, and retailers that are
33 engaged in the processing, as defined by the NOP, of products
34 sold as organic, shall register with the county agricultural
35 commissioner in the county of principal operation before the first
36 sale of the product. All processors of organic agriculturally derived
37 products that are not required to be registered with the director
38 under Article 7 (commencing with Section 110810) of Chapter 5
39 of Part 5 of Division 104 of the Health and Safety Code shall
40 register with the secretary. Each registrant shall provide a complete

1 copy of its registration to the county agricultural commissioner in
2 any county in which the registrant operates.

3 (b) A person certified under the National Organic Program shall
4 be deemed registered and shall not be required to register pursuant
5 to subdivision (a).

6 (c) The secretary, in consultation with the advisory committee,
7 shall establish procedures for registration and information required
8 for registration.

9 (d) Registration pursuant to this section shall be valid for one
10 year and shall be renewed annually.

11 46022. (a) This act shall not apply to the term “natural” when
12 used in the labeling or advertising of a product.

13 (b) This act also applies to seed, fiber, and horticultural products.
14 The terms “foods” and “raw agricultural commodities” as used in
15 this chapter include seed, fiber, and horticultural products where
16 the context requires to effectuate this section.

17 (c) Article 14 (commencing with Section 43031) of Chapter 2
18 applies to any food product that is represented as organically
19 produced by any person who is not registered as required by this
20 chapter or any product that is not in compliance with this chapter
21 or Article 7 (commencing with Section 110810) of Chapter 5 of
22 Part 5 of Division 104 of the Health and Safety Code. The
23 secretary, county agricultural commissioners, and the director shall
24 be considered enforcing officers for purposes of those provisions
25 of law under their respective jurisdiction.

26 46023. (a) To the extent feasible, the secretary shall coordinate
27 the registration and fee collection procedures of this section with
28 similar licensing or registration procedures applicable to registrants.

29 (b) The secretary or county agricultural commissioner shall
30 deny a registration submission that is incomplete or not in
31 compliance with this act.

32 (c) A registrant shall, within a reasonable time, notify the
33 secretary of any change in the information reported on the
34 registration form and shall pay any additional fee owed if that
35 change results in a higher fee owed than that previously paid.

36 (d) At the request of any person, the public information sheet
37 for any registrant shall be made available for inspection and
38 copying at the main office of the department and each county
39 agricultural commissioner. Copies of the “public information sheet”
40 shall also be made available by mail, upon written request. The

1 secretary or county agricultural commissioner may charge a
2 reasonable fee for the cost of reproducing a “public information
3 sheet.” Except as provided in this subdivision, a registration form
4 is exempt from Chapter 3.5 (commencing with Section 6250) of
5 Division 7 of Title 1 of the Government Code.

6 (e) The secretary, in consultation with the California Organic
7 Products Advisory Committee, may suspend the registration
8 program set forth in this section if the secretary determines that
9 income derived from registration fees is insufficient to support a
10 registration enforcement program.

11 (f) A registration is considered legal and valid until revoked,
12 suspended, or until the expiration of the registration.

13 (g) The registration revocation process shall be in conjunction
14 with other provisions of this chapter. The secretary or county
15 agricultural commissioner’s office may initiate the revocation
16 process for failure to comply with the NOP or this act. Any person
17 against whom the action is being taken shall have the opportunity
18 to appeal the action and be afforded the opportunity to be heard
19 in an administrative appeal. This appeal shall be administered by
20 either the state or county agricultural commissioner’s office.

21 (h) When the registration fee is not paid within 60 days from
22 the expiration date, the account shall be considered closed and the
23 registration voided. A notification shall be sent to the registrant
24 and the certifier, if applicable, notifying them the registrant is no
25 longer able to market products as organic until the account is paid
26 in full.

27 (i) Any producer, handler, processor, or certification agency
28 subject to this chapter that does not pay the fee within 10 days of
29 the date on which the fee is due and payable shall pay a penalty
30 of 10 percent of the total amount determined to be due plus interest
31 at the rate of 1.5 percent per month on the unpaid balance.

32 46024. (a) Any certification ~~organization~~ *agency* that certifies
33 product in this state sold as organic shall register with the secretary
34 and shall thereafter annually renew the registration, unless the
35 ~~organization~~ *certification agency* is no longer engaged in the
36 activities requiring the registration. Registration shall be on a form
37 provided by the secretary, and shall include a copy of accreditation
38 by the USDA or proof of application, if applicable.

39 (b) For the purpose of conducting activities authorized under
40 this act, the secretary shall require certifying ~~agents~~ *agencies*

1 operating in the state to *also* annually submit the information that
2 it submits to the NOP directly to the ~~state organic program~~. *State*
3 *Organic Program*. The secretary shall accept the information in
4 the same format that the certifying agent uses to submit information
5 to the NOP.

6 (c) Any registration submitted by a certification ~~organization~~
7 *agency* shall be made available to the public for inspection and
8 copying. The secretary may audit the ~~organization's certification~~
9 *agency's* certification procedures and records at any time, but any
10 records of the certification ~~organization agency~~ not otherwise
11 required to be disclosed shall be kept confidential by the secretary.

12 (d) The secretary and the county agricultural commissioners
13 under the supervision of the secretary shall, if requested by a
14 sufficient number of persons to cover the costs of the program in
15 a county as determined by the secretary, establish a certification
16 program. This program shall meet all of the requirements of this
17 chapter. In addition, this program shall meet all of the requirements
18 of the federal certification program, including federal accreditation.
19 ~~The secretary shall establish a fee schedule for participants in this~~
20 ~~program that covers all of the department's reasonable costs of the~~
21 ~~program~~. A county agricultural commissioner that conducts a
22 voluntary certification program pursuant to this section shall
23 establish a fee schedule for participants in this program that covers
24 all of the county's reasonable costs of the program. The secretary
25 may not expend funds obtained from registration fees collected
26 under this chapter for the purposes of adopting or administering
27 this program.

28 (e) The certification fee authorized under subdivision (d) is due
29 and payable on January 1 or may be prorated before the 10th day
30 of the month following the month in which the decision to grant
31 the certification is issued. Any person who does not pay the amount
32 that is due within the required period shall pay the enforcement
33 authority providing the certificate a penalty of 10 percent of the
34 total amount determined to be due, plus interest at the rate of 1.5
35 percent per month on the unpaid balance.

36 46025. (a) All products sold as organic in California shall be
37 certified by a federally accredited certifying agent, if they are
38 required to be certified under the federal act.

39 (b) Product shall be sold as organic only in accordance with this
40 chapter.

1 (c) A certification-~~organization~~ *agency* shall be accredited by
2 the USDA as provided in the NOP.

3 46026. Materials allowed in organic production and processing
4 are specified in the Federal Organic Standards (7 C.F.R. Sec. 205
5 et seq.). Organic input materials for organic production are
6 regulated under Chapter 5 (commencing with Section 14501) of
7 Division 7.

8
9 Article 4. Fees and Penalties

10
11 46031. (a) The secretary, in consultation with the advisory
12 committee, shall establish a registration fee for producers, handlers,
13 and retail food establishments that are exempt from certification
14 under the NOP but who are required to register with the state
15 pursuant to Section 46021. The registration fee shall not exceed
16 the reasonable costs of enforcement activities as authorized under
17 Section 46012 on operations exempt from ~~certification~~.
18 *certification, up to a maximum of five hundred dollars (\$500).*

19 (b) The secretary, in consultation with the advisory committee,
20 shall establish a registration fee for certifying-~~agents~~ *agencies*
21 operating within the state. The registration fee shall not exceed
22 the reasonable costs of enforcement and monitoring of certifying
23 agents.

24 (c) The secretary, in consultation with the advisory committee,
25 may establish an annual fee *for producers* for the purposes of
26 funding the activities authorized under this act. Any fee established
27 shall not exceed the following fee schedule for gross annual organic
28 sales amounts:

Gross Annual Organic Sales	Annual Fee Amount
\$0 - 4,999	\$25
\$5,000 - 25,000	\$50
\$25,001 - 250,000	\$100
\$ 250,001 - 500,000	\$450
\$ 500,001 - 1,000,000	\$750
\$ 1,000,001 - 2,500,000	\$1,000
\$ 2,500,001 - 5,000,000	\$1,500
\$ 5,000,001 - 15,000,000	\$2,000
\$ 15,000,001 - 25,000,000	\$2,500

1 \$ 25,000,001 and above	2 \$3,000
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3 (d) *The secretary, in consultation with the director pursuant to*
4 *subdivision (a) of Section 46011, shall coordinate the collection*
5 *and expenditure of annual fees. The secretary shall identify*
6 *certified organic producers under the enforcement authority of*
7 *the department based on the information provided under*
8 *subdivision (b) of Section 46024 and shall annually bill and collect*
9 *the applicable annual fee from the certified organic producers.*
10 *The secretary shall not require information other than gross annual*
11 *organic sales in the billing forms. The secretary shall forward*
12 *certified organic producers identified as subject to enforcement*
13 *by the department to the director for billing and fee collection.*

14 46032. (a) The fees and penalties collected by the secretary
15 and county agricultural commissioners pursuant to this chapter
16 shall be deposited in the Department of Food and ~~Agricultural~~
17 *Agriculture* Fund and, upon appropriation by the Legislature, shall
18 be expended solely to fulfill the activities authorized under this
19 chapter.

20 (b) By regulation, the secretary may establish procedures to
21 allow any fees and penalties collected by a county agricultural
22 commissioner pursuant to Section 46047 and any other penalties
23 collected by a county agricultural commissioner pursuant to this
24 chapter to be paid directly to the county agricultural commissioner
25 and expended to fulfill the responsibilities of the county agricultural
26 commissioner, as specified in this chapter.

27 (c) Any person subject to this chapter that does not pay the
28 registration fee within 10 days of the date on which the fee is due
29 and payable shall pay a penalty of 10 percent of the total amount
30 determined to be due plus interest at the rate of 1.5 percent per
31 month on the unpaid balance.

32 46033. (a) Any fee established and collected pursuant to this
33 chapter shall not exceed the department’s cost or the county
34 agricultural commissioner’s costs, as the case may be, of regulating
35 and enforcing the provisions of this chapter related to the function
36 for which the fee is established.

37 (b) The fees established and collected pursuant to this chapter
38 may be expended, under the advisement of the advisory committee,
39 for activities authorized under this chapter, including assisting

1 operations in achieving certification, conducting education and
2 outreach, entering research and development partnerships, and
3 addressing production or marketing obstacles to the growth of the
4 organic sector.

5

6

Article 5. Enforcement

7

8 46041. (a) This chapter shall apply notwithstanding any other
9 law that is inconsistent with this chapter. Nothing in this chapter
10 is intended to repeal any other law consistent with this chapter.

11 (b) Article 14 (commencing with Section 43031) of Chapter 2
12 applies to any product that is represented as organically produced
13 by any person who is not registered as required by this chapter or
14 any product that is not in compliance with this chapter or the NOP.

15 (c) The secretary, county agricultural commissioners, and the
16 director shall be considered enforcing officers for purposes of
17 those provisions of law under their respective jurisdiction.

18 (d) Any person may file a complaint with the director concerning
19 suspected noncompliance with this chapter or Article 7
20 (commencing with Section 110810) of Chapter 5 of Part 5 of
21 Division 104 of the Health and Safety Code by a person under the
22 enforcement jurisdiction of the director, as provided in ~~Section~~
23 ~~46000~~. *subdivision (c)*.

24 (e) The director shall, to the extent funds are available, establish
25 procedures for handling complaints, including provision of a
26 written complaint form, and procedures for commencing an
27 investigation within three working days after receiving a complaint
28 regarding fresh food, and within seven working days for other
29 food, and completing an investigation and reporting findings and
30 enforcement action taken, if any, to the complainant within 60
31 days thereafter.

32 (f) The director may establish minimum information
33 requirements to determine the verifiability of a complaint, and
34 may provide for rejection of a complaint that does not meet the
35 requirements. The director shall provide written notice of the
36 reasons for rejection to the person filing the complaint.

37 (g) The director shall carry out the functions and objectives of
38 this chapter and Article 7 (commencing with Section 110810) of
39 Chapter 5 of Part 5 of Division 104 of the Health and Safety Code,
40 to the extent funds are available for those purposes.

1 (h) A certified organic producer shall not be penalized if an
2 accredited certifying agent fails to meet reporting requirements
3 set forth in subdivision (b) of Section 46024.

4 46042. At the request of a county agricultural commissioner,
5 the district attorney for that county may bring an action to enforce
6 this act within the enforcement jurisdiction of that commissioner.

7 46043. (a) Any person may file a complaint with the secretary
8 concerning suspected noncompliance with this act, as provided in
9 regulations adopted by the NOP.

10 (b) The secretary shall, to the extent funds are available,
11 establish procedures for handling complaints, including provision
12 of a written complaint form, and procedures for commencing an
13 investigation within three working days after receiving a complaint
14 regarding fresh food, and within seven working days for other
15 products, and completing an investigation and reporting findings
16 and enforcement action taken, if any, to the complainant within
17 60 days thereafter.

18 (c) The secretary may establish minimum information
19 requirements to determine the verifiability of a complaint, and
20 may provide for rejection of a complaint that does not meet the
21 requirements. The secretary shall provide written notice of the
22 reasons for rejection to the person filing the complaint.

23 (d) The secretary shall carry out the functions and objectives of
24 this chapter to the extent funds are available for those purposes.

25 (e) The complaint process in this state must also ~~meet all~~ *comply*
26 *with* the complaint process outlined in regulations adopted by the
27 NOP.

28 46044. (a) A county agricultural commissioner may, at any
29 time, initiate a notice and hearing process to determine whether a
30 violation of these provisions has occurred. The hearing process to
31 determine if a violation has occurred may include a review of the
32 actions or records of all of the following:

- 33 (1) The organic registrant.
- 34 (2) A family member, employee, or any other person authorized
35 to act on behalf of the registrant.
- 36 (3) Any other person whose actions may have resulted in the
37 violation.

38 (b) The notice of hearing shall be on a form approved by the
39 secretary that contains all of the following:

- 40 (1) The reasons why the hearing is being held.

1 (2) A warning that failure to participate may result in other
2 adverse actions or may be considered to be admission to a possible
3 violation.

4 (3) A hearing date, time, and location of the hearing.

5 (4) The secretary or county agricultural commissioner may,
6 upon determination that a violation has been made in accordance
7 with subdivision (a), take any corrective action as specified in this
8 act.

9 46045. (a) Any person may appeal to the secretary for a hearing
10 if aggrieved by either of the following actions or decisions:

11 (1) Denial of any registration.

12 (2) Revocation of any registration.

13 (b) The appeal shall be submitted to the secretary in writing
14 within 30 days of the date the action, or the letter proposing the
15 action. The secretary's proceeding shall, insofar as practicable,
16 comply with the provisions of the Administrative Procedure Act
17 (Chapter 5 (commencing with Section 11500) of Part 1 of Division
18 3 of Title 2 of the Government Code), except that a department
19 hearing officer may be used.

20 46046. As provided for in regulations adopted by the NOP,
21 the action proposed by a NOP accredited ~~certifier~~ *certification*
22 *agency* against a client may be appealed to the secretary for
23 mediation.

24 46047. (a) In lieu of prosecution, the secretary or a county
25 agricultural commissioner may levy an administrative penalty
26 against any person under the enforcement jurisdiction of the
27 secretary as provided in Section 46000 who violates this act, or
28 any regulation adopted pursuant thereto or pursuant to this chapter,
29 or regulations adopted by the NOP, in an amount not more than
30 five thousand dollars (\$5,000) for each violation. The amount of
31 the penalty assessed for each violation shall be based upon the
32 nature of the violation, the seriousness of the effect of the violation
33 upon effectuation of the purposes and provisions of this chapter
34 and the impact of the penalty on the violator, including the deterrent
35 effect on future violations.

36 (b) Notwithstanding the penalties prescribed in subdivision (a),
37 if the secretary or county agricultural commissioner finds that a
38 violation was not intentional, the secretary or county agricultural
39 commissioner may levy an administrative penalty of not more than
40 two thousand five hundred dollars (\$2,500) for each violation.

1 (c) For a first offense, in lieu of an administrative penalty as
2 prescribed in subdivision (a) or (b), the secretary or county
3 agricultural commissioner may issue a notice of violation if he or
4 she finds that the violation is minor.

5 (d) A person against whom an administrative penalty is proposed
6 shall be afforded an opportunity for a hearing before the secretary
7 or county agricultural commissioner, upon request made in writing
8 within 30 days after the issuance of the notice of penalty. At the
9 hearing, the person shall be given the right to review the secretary's
10 or commissioner's evidence of the violation and the right to present
11 evidence on his or her own behalf. If no hearing is requested, the
12 administrative penalty shall constitute a final and nonreviewable
13 order.

14 (e) If a hearing is held, review of the final decision of the
15 secretary or county agricultural commissioner may be requested
16 in writing by any person, pursuant to Section 1094.5 of the Code
17 of Civil Procedure within 30 days of the date of the final order of
18 the secretary or county agricultural commissioner.

19 (f) An administrative penalty levied by the secretary pursuant
20 to this section may be recovered in a civil action brought in the
21 name of the state. An administrative penalty levied by a county
22 agricultural commissioner pursuant to this section may be
23 recovered in a civil action brought in the name of the county. After
24 the exhaustion of the review procedures provided in this section,
25 a county agricultural commissioner, or his or her representative,
26 may file a certified copy of a final decision of the commissioner
27 that directs the payment of an administrative penalty and, if
28 applicable, a copy of any order that denies a petition for a writ of
29 administrative mandamus with the clerk of the superior court of
30 any county. Judgment shall be entered immediately by the clerk
31 in conformity with the decision or order. Pursuant to Section 6103
32 of the Government Code, no fees shall be charged by the clerk of
33 the superior court for the performance of any official service
34 required in connection with the entry of judgment pursuant to this
35 section.

36 (g) The secretary shall maintain in a central location, and make
37 publicly available for inspection and copying upon request, a list
38 of all administrative penalties levied by the secretary and by each
39 county agricultural commissioner within the past five years,
40 including the amount of each penalty, the person against whom

1 the penalty was levied, and the nature of the violation. Copies of
2 this list shall also be available by mail, upon written request and
3 payment of a reasonable fee, as set by the secretary.

4 46048. The secretary and the county agricultural commissioners
5 may conduct a program of spot inspections to determine
6 compliance with this act.

7 46049. (a) It is unlawful for any person to sell, offer for sale,
8 advertise, or label any product in violation of this act.

9 (b) Notwithstanding subdivision (a), a person engaged in
10 business as a handler, distributor, or retailer of food who in good
11 faith sells, offers for sale, labels, or advertises any product in
12 reliance on the representations of a producer, processor, or other
13 distributor that the product may be sold as organic, shall not be
14 found to violate this act unless the distributor either:

15 (1) Knew or should have known that the product could not be
16 sold as organic.

17 (2) Was engaged in producing or processing the product.

18 (3) Prescribed or specified the manner in which the product was
19 produced or processed.

20 46050. (a) It is unlawful for any person to certify any product
21 in violation of this act.

22 (b) It is unlawful for any person to certify a product or company
23 as organic unless duly registered as a certification ~~organization~~
24 *agency* pursuant to this act.

25 (c) It is unlawful for any person to willfully make a false
26 statement or representation, or knowingly fail to disclose a fact
27 required to be disclosed, in registration for a certification
28 ~~organization~~ *agency* pursuant to this act.

29 46051. (a) It is unlawful for any person to produce or handle
30 any product sold as organic unless duly registered pursuant to
31 Section 46021.

32 (b) It is unlawful for any person to willfully make a false
33 statement or representation, or knowingly fail to disclose a fact
34 required to be disclosed, in registration pursuant to Section 46021.

35 46052. It is unlawful for any person to forge, falsify, fail to
36 retain, fail to obtain, or fail to disclose records pursuant to Section
37 46055.

38 46053. (a) It is unlawful for any person to advertise, label, or
39 otherwise represent that any fertilizer or pesticide chemical may
40 be used in connection with the production, processing, or

1 distribution of products sold as organic if that fertilizer or pesticide
2 chemical contains a prohibited ~~material~~: *substance*.

3 (b) It is unlawful for any person to refuse to submit for
4 inspection.

5 (c) It is unlawful for any person to mislabel any organic product.

6 (d) It is unlawful for any person to alter any organic registration
7 form.

8 (e) It is unlawful for any person to alter any certification
9 document.

10 (f) It is unlawful for any person to falsify any document.

11 (g) It is unlawful for any person to remove a hold off sale or
12 disposal order from any lot of product.

13 (h) It is unlawful to use the term “transitional organic” in this
14 state.

15 46054. No food or product may be advertised or labeled as
16 “organic when available” or similar terminology that leaves in
17 doubt whether the food is being sold as organic.

18 ~~46055. All persons who produce, handle, or retail products that~~
19 ~~are sold as organic shall keep accurate and specific records of the~~
20 ~~following as applicable:~~

21 ~~(a) The quantity harvested from each field or management unit,~~
22 ~~the size of the field or management unit, the field number, and the~~
23 ~~date of harvest.~~

24 ~~(b) Unless the livestock, fowl, or fish was raised or hatched by~~
25 ~~the producer, the name and address of all suppliers of livestock,~~
26 ~~fowl, or fish and the date of the transaction.~~

27 ~~(c) For each field or management unit, all substances applied~~
28 ~~to the crop, soil, growing medium, growing area, irrigation or post~~
29 ~~harvest wash or rinse water, or seed, the quantity of each substance~~
30 ~~applied, and the date of each application. All substances shall be~~
31 ~~identified by brand name, if any, and by source.~~

32 ~~(d) All substances administered and fed to the animal, including~~
33 ~~all feed, medication and drugs, and all substances applied in any~~
34 ~~area in which the animal, milk, or eggs are kept, including the~~
35 ~~quantity administered or applied, and the date of each application.~~
36 ~~All substances shall be identified by brand name, if any, and by~~
37 ~~source.~~

38 ~~(e) (1) Invoices, bills of lading or other documents that show~~
39 ~~transfer of title of certified organic products shall indicate the~~
40 ~~product is “organic” or “certified organic” and, if applicable, the~~

1 ~~California registration number of the person transferring the~~
2 ~~product.~~

3 ~~(2) Any person selling product that is exempt or excluded from~~
4 ~~certification under NOP rules, must follow the requirements of~~
5 ~~Section 205.101 of Title 7 of the Code of Federal Regulations.~~

6 ~~(f) All substances applied to the product or used in or around~~
7 ~~any area where product is kept including the quantity applied and~~
8 ~~the date of each application. All pesticide chemicals shall be~~
9 ~~identified by brand name, if any, and by source.~~

10 ~~(g) Except when sold to the consumer, the name and address of~~
11 ~~all persons, to whom or from whom the product is sold, purchased~~
12 ~~or otherwise transferred, the quantity of product sold or otherwise~~
13 ~~transferred, and the date of the transaction.~~

14 *46055. All persons who produce, handle, or retail products*
15 *sold as organic and are exempt from organic certification under*
16 *the federal Organic Foods Production Act of 1990 (7 U.S.C. Sec.*
17 *6501 et seq.) shall keep accurate and specific records as required*
18 *by the secretary, in consultation with the advisory committee.*
19 *Certified organic operations shall keep records required under*
20 *the federal organic standards.*

21 46056. (a) Notwithstanding any other law, any producer,
22 handler, processor, or retailer of product sold as organic shall
23 immediately make available for inspection by, and shall upon
24 request, within 72 hours of the request, provide a copy to, the
25 secretary, the Attorney General, any prosecuting attorney, any
26 governmental agency responsible for enforcing laws related to the
27 production or handling of products sold as organic, of any record
28 required to be kept under this section for purposes of carrying out
29 this chapter. Records acquired pursuant to this chapter shall not
30 be public records as that term is defined in Section 6252 of the
31 Government Code and shall not be subject to Chapter 3.5
32 (commencing with Section 6250) of Division 7 of Title 1 of the
33 Government Code.

34 (b) Upon written request of any person that establishes cause
35 for the request, the secretary shall obtain and provide to the
36 requesting party within 10 working days of the request a copy of
37 any of the following records required to be kept under this chapter
38 that pertain to a specific product sold or offered for sale, and that
39 identify substances applied, administered, or added to that product,
40 except that financial information about an operation or transaction,

1 information regarding the quantity of a substance administered or
2 applied, the date of each administration or application, information
3 regarding the identity of suppliers or customers, and the quantity
4 or price of supplies purchased or products sold shall be removed
5 before disclosure and shall not be released to any person other than
6 persons and agencies authorized to acquire records under
7 subdivision (a):

8 (1) Records of a producer, as described in Section 46056.

9 (2) Records of a handler, as described in Section 46056, records
10 of previous handlers, if any, and producers as described in Section
11 46056 without identifying the previous handlers or producers, and,
12 if applicable, records obtained as required in this act.

13 (3) (A) Records of a retailer, as described in Section 46056,
14 records of previous handlers, if any, and producers as described
15 in Section 46056 without identifying the previous processors,
16 handlers, or producers, and, if applicable, records obtained as
17 required in subdivision (d). This subdivision shall be the exclusive
18 means of public access to records required to be kept by producers,
19 processors, handlers, and retailers under this chapter.

20 (B) A person required to provide records pursuant to a request
21 under this subdivision, may petition the secretary to deny the
22 request based on a finding that the request is of a frivolous or
23 harassing nature. The secretary may, upon the issuance of this
24 finding, waive the information production requirements of this
25 subdivision for the specific request for information that was the
26 subject of the petition.

27 (c) Information specified in subdivision (b) that is required to
28 be released upon request shall not be considered a “trade secret”
29 under Section 110165, Section 1060 of the Evidence Code, or the
30 Uniform Trade Secrets Act (Title 5 (commencing with Section
31 3426) of Part 1 of Division 4 of the Civil Code).

32 (d) The secretary may charge the person requesting records a
33 reasonable fee to reimburse himself or herself or the source of the
34 records for the cost of reproducing the records requested.

35 (e) The secretary shall not be required to obtain records not in
36 his or her possession in response to a subpoena. Before releasing
37 records required to be kept pursuant to this act in response to a
38 subpoena, the secretary shall delete any information regarding the
39 identity of suppliers or customers and the quantity or price of
40 supplies purchased or products sold.

1 SEC. 4. Section 110810 of the Health and Safety Code is
2 amended to read:

3 110810. This article and Chapter 10 (commencing with Section
4 46000) of Division 17 of the Food and Agricultural Code shall be
5 known and may be cited as the California Organic Food and
6 Farming Act.

7 SEC. 5. Section 110812 of the Health and Safety Code is
8 amended to read:

9 110812. The director, in consultation with the Secretary of
10 Food and Agriculture, shall enforce regulations promulgated by
11 the National Organic Program (Section 6517 of the federal Organic
12 Foods Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.)),
13 provisions of this article, and Chapter 10 (commencing with
14 Section 46000) of Division 17 of the Food and Agricultural Code.

15 SEC. 6. Section 110815 of the Health and Safety Code is
16 repealed.

17 SEC. 7. Section 110815 is added to the Health and Safety Code,
18 to read:

19 110815. The definitions set forth in Section 46001 of the Food
20 and Agricultural Code shall apply to this article.

21 SEC. 8. Section 110860 of the Health and Safety Code is
22 amended to read:

23 110860. A registered certification ~~organization~~ agency or a
24 federally accredited certification ~~organization~~ agency shall, at least
25 annually, physically inspect the premises where the food to be
26 certified is produced and processed. The inspection shall include
27 an examination of recordkeeping.

28 SEC. 9. Section 110870 of the Health and Safety Code is
29 repealed.

30 ~~SEC. 10. Section 110875 of the Health and Safety Code is~~
31 ~~repealed.~~

32 ~~SEC. 11. Section 110875 is added to the Health and Safety~~
33 ~~Code, to read:~~

34 ~~110875. A person certified under the National Organic Program~~
35 ~~shall be deemed registered for the purposes of the state organic~~
36 ~~program, and shall not be required to separately register with the~~
37 ~~state.~~

38 *SEC. 10. Section 110875 of the Health and Safety Code is*
39 *amended to read:*

1 110875. (a) ~~Every~~—*A person certified under the National*
2 *Organic Program shall be deemed registered for the purposes of*
3 *the State Organic Program and shall not be required to separately*
4 *register with the state.*

5 (b) *Every person engaged in this state in the processing or*
6 *handling of processed products for human consumption, including*
7 *dietary supplements, alcoholic beverages, and fish or seafood sold*
8 *as organic (except for processors and handlers of processed meat,*
9 *fowl, or dairy products and retailers that are engaged in the*
10 *processing or handling of products sold as organic), and every*
11 *person engaged in the processing or handling of animal food and*
12 *cosmetics sold as organic, shall register with the director, and shall*
13 *thereafter annually renew the registration unless no longer so*
14 *engaged. Handlers of processed food products that are registered*
15 *with the department pursuant to Article 2 (commencing with*
16 *Section 110460) shall register under this section in conjunction*
17 *with the annual renewal of their registration pursuant to that article.*
18 *Handlers of organic products that are required to be registered to*
19 *manufacture, pack, or hold processed food pursuant to Article 2*
20 *(commencing with Section 110460) of Chapter 5 of Part 5 of*
21 *Division 104, licensed to bottle, vend, haul, or process water*
22 *pursuant to Article 12 (commencing with Section 11070) of*
23 *Chapter 5 of Part 5 of Division 104, certified to process or handle*
24 *fresh or frozen seafood or fresh or frozen raw shellfish pursuant*
25 *to Chapter 5 (commencing with Section 112150) of Part 6 of*
26 *Division 104, licensed to operate a cold storage facility pursuant*
27 *to Chapter 6 (commencing with Section 112350) of Part 6 of*
28 *Division 104, licensed to process low acid canned foods pursuant*
29 *to Chapter 8 (commencing with Section 112650) of Part 6 of*
30 *Division 104, licensed to manufacture olive oil pursuant to Chapter*
31 *9 (commencing with Section 112875) of Part 6 of Division 104,*
32 *and licensed or registered to process or hold pet food in California*
33 *pursuant to Chapter 10 (commencing with Section 113025) of Part*
34 *6 of Division 104, shall possess a valid registration or license in*
35 *order to obtain a valid organic registration for the same facility*
36 *under this section. All others required to register under this*
37 *subdivision shall register within 30 days of forms being made*
38 *available for this purpose. Any processor or handler of processed*
39 *products required to register under this subdivision that does not*
40 *pay the registration fee required by subdivision ~~(e)~~ (d) within 30*

1 days of the date on which the fee is due and payable shall pay a
 2 penalty of 1 ½ percent per month on the unpaid balance.

3 ~~(b)~~

4 (c) Registration shall be on a form provided by the director and
 5 shall be valid for a period of one calendar year from the date of
 6 validation of the completed registration form. The director shall
 7 make registration forms available for this purpose. The information
 8 provided on the registration form shall include all of the following:

9 (1) The nature of the registrant’s business, including the specific
 10 commodities and quantities of each commodity that is handled
 11 and sold as organic.

12 (2) The total current annual organic gross sales, or if not selling
 13 the product, the total current gross annual revenue received from
 14 processing, packaging, repackaging, labeling, or otherwise handling
 15 organic products for others, in dollars.

16 (3) The names of all certification organizations and
 17 governmental entities, if any, providing certification to the
 18 registrant pursuant to this article and the regulations adopted by
 19 the NOP.

20 (4) Sufficient information, under penalty of perjury, to enable
 21 the director to verify the amount of the registration fee to be paid
 22 in accordance with subdivision ~~(e)~~. (d).

23 ~~(e)~~

24 (d) To the extent feasible, the director shall coordinate the
 25 registration and fee collection procedures of this section with
 26 similar licensing or registration procedures applicable to registrants.
 27 When coordinating the organic registration with other required
 28 registrations or licenses identified in subdivision ~~(a)~~, (b), the
 29 expiration date shall be the same expiration date as the valid license
 30 or registration. For persons that hold two-year licenses or
 31 registrations pursuant to subdivision ~~(a)~~, (b), the organic
 32 registration shall be renewed annually using the same expiration
 33 month and day as the two-year license or registration.

34 ~~(d)~~

35 (e) A registration form shall be accompanied by payment of a
 36 nonrefundable registration fee payable to the department by
 37 handlers ~~which~~ that shall be based on annual gross sales of organic
 38 product or annual revenue received from processing, packaging,
 39 repackaging, labeling, or otherwise handling organic product for
 40 others, by the registrant in the calendar year that precedes the date

1 of registration. If no sales or revenue were made in the preceding
2 year, then based on the expected sales or revenue during the 12
3 calendar months following the date of registration. ~~Unless specified~~
4 ~~elsewhere, the fee is based according to the following schedule:~~

5 (f) *The director, in consultation with the California Organic*
6 *Products Advisory Committee, may establish an annual fee for*
7 *processors and handlers for the purpose of funding the activities*
8 *authorized under this article, not to exceed the following amounts:*
9

10 Gross Annual Sales or	Annual Registration
11 Revenue	Fee
12 \$0–\$5,000	\$ 50
13 \$5,001–\$50,000	\$100
14 \$50,001–\$125,000	\$200
15 \$125,001–\$250,000	\$300
16 \$250,001–\$500,000	\$400
17 \$500,001–\$1,500,000	\$500
18 \$1,500,001–\$2,500,000	\$600
19 \$2,500,001–and above	\$700

20
21 (1) Any handler that does not take possession or title of the
22 product but arranges for the sale of the product shall register and
23 pay one hundred dollars (\$100) per year.

24 (2) Any person that only provides temporary storage for seven
25 days or less, or only provides transportation for organic product
26 and does not handle the processed packaged product, does not
27 have to register.

28 (3) Any person that hires any other person to custom pack,
29 repack, or label organic products shall register and pay a fee based
30 on the total annual sales of products custom packed, repacked, or
31 labeled for them as outlined in the chart above.

32 (e)

33 (g) Revenue received pursuant to this section shall be deposited
34 in the Food Safety Fund created pursuant to Section 110050.

35 (f)

36 (h) The director shall reject a registration submission that is
37 incomplete or not in compliance with this article and regulations
38 promulgated by the NOP.

39 (g)

- 1 (i) The director shall provide a validated certificate to the
- 2 registrant.
- 3 ~~(h)~~
- 4 (j) Registration forms shall be made available to the public for
- 5 inspection and copying at the main office of the department. Copies
- 6 of registration forms shall also be made available by mail, upon
- 7 written request and payment of a reasonable fee, as determined by
- 8 the director. Registration information regarding quantity of
- 9 products sold and gross sales volume in dollars shall be deleted
- 10 ~~prior to~~ before public inspection and copying and shall not be
- 11 released to any person except other employees of the department,
- 12 the Department of Food and Agriculture, a county agricultural
- 13 commissioner, the Attorney General, any prosecuting attorney, or
- 14 any government agency responsible for enforcing laws related to
- 15 the activities of the person subject to this part.
- 16 ~~(i)~~
- 17 (k) A registrant shall immediately notify the director of any
- 18 change in the information reported on the registration form and
- 19 shall pay any additional fee owed if that change results in a higher
- 20 fee owed than previously paid.
- 21 ~~(j)~~
- 22 (l) The director in consultation with the California Organic
- 23 Products Advisory Committee, may suspend the registration
- 24 program set forth in this section if the director determines that
- 25 income derived from registration fees is insufficient to support a
- 26 registration enforcement program.
- 27 ~~(k)~~
- 28 (m) A registration is considered legal and valid until revoked,
- 29 suspended, or until the expiration of the registration.
- 30 ~~(l)~~
- 31 (n) The registration revocation process ~~must~~ shall be in
- 32 conjunction with other provisions of this article. The director can
- 33 initiate the revocation process for failure to comply with this article
- 34 or any part of the regulations adopted pursuant to the NOP. Any
- 35 person against whom the action is being taken shall have the
- 36 opportunity to appeal the action and be afforded the opportunity
- 37 to be heard in an administrative appeal. This appeal can be
- 38 administered by either the state or county agricultural
- 39 commissioner's office.
- 40 ~~(m)~~

1 (o) When the registration fee is not paid within 60 days from
2 the expiration date the account may be considered closed and the
3 registration voided. A notification ~~will~~ *shall* be sent to the registrant
4 and the certifier ~~will~~ *shall* notify them that they are no longer able
5 to market products as organic until the account is paid in full.

6 ~~(n)~~

7 (p) Any registration that is more than 60 days late ~~will~~ *shall* be
8 considered invalid and it is a violation if product is sold as organic.

9 ~~SEC. 12.~~

10 *SEC. 11.* Section 110920 of the Health and Safety Code is
11 amended to read:

12 110920. (a) The department shall use funds appropriated by
13 the Legislature in the annual Budget Act from fees collected
14 pursuant to Section 46031 of the Food and Agricultural Code to
15 fulfill its obligations under this article.

16 (b) No fee established and collected pursuant to this article shall
17 exceed the department's costs of regulating and enforcing the
18 provisions of this article related to the function for which the fee
19 is established.

20 ~~SEC. 13.~~ ~~Section 110925 of the Health and Safety Code is~~
21 ~~amended to read:~~

22 ~~110925. Any fees and civil penalties collected pursuant to this~~
23 ~~article shall be deposited in a separate organic food safety~~
24 ~~subaccount of the Food Safety Account and, upon appropriation~~
25 ~~by the Legislature, shall be expended to fulfill the responsibilities~~
26 ~~of the director as specified in this article.~~

27 ~~SEC. 14.~~

28 *SEC. 12.* Section 110958 of the Health and Safety Code is
29 repealed.

30 ~~SEC. 15.~~

31 *SEC. 13.* Section 110958 is added to the Health and Safety
32 Code, to read:

33 110958. (a) Annually, the department shall compile, publish,
34 and submit to the California Organic Products Advisory Committee
35 a summary of the following information:

36 (1) Enforcement actions taken by the department in that fiscal
37 year.

38 (2) Accounting revenues received and expended by the
39 department in implementing this article.

40 (3) *Gross annual sales of organic processed products.*

1 (b) The information shall be presented in an aggregate form that
2 preserves the confidentiality of proprietary information of
3 individual businesses.

4 ~~SEC. 16.~~

5 *SEC. 14.* If the Commission on State Mandates determines that
6 this act contains costs mandated by the state, reimbursement to
7 local agencies and school districts for those costs shall be made
8 pursuant to Part 7 (commencing with Section 17500) of Division
9 4 of Title 2 of the Government Code.