

AMENDED IN SENATE JUNE 15, 2016
AMENDED IN ASSEMBLY APRIL 26, 2016
AMENDED IN ASSEMBLY APRIL 21, 2016
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 amend Sections 46000, 46001, 46002, 46003, 46004.1, 46007, 46010.5, 46012, 46013.1, 46013.2, 46014.1, 46014.2, 46014.4, 46014.6, 46016.4, 46016.5, 46021, and 46028 of, and to add Section 46003.2 to, the Food and Agricultural 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, and the Director of the State Department of Public Health to enforce state and federal laws governing the production, labeling, and marketing of organic products, as specified. 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 and would set forth the purposes of the act.

Existing law establishes the California Organic Products Advisory Committee, comprised of 15 members, to advise the secretary on his or her responsibilities under the act.

The bill would revise the composition of the advisory committee and would expand the scope of the advisory committee's duties to include advising the secretary on education, outreach, and technical assistance for producers. The bill would authorize the secretary, in consultation with the advisory committee, to establish procedures for and conduct certain activities, including ~~providing technical assistance, education, outreach, and guidance to the organic industry.~~ *supporting organic agriculture through education, outreach, and other programmatic activities.* The bill would specify that penalties collected by the secretary and fees collected by county agricultural commissioners pursuant to the act's provisions shall be expended to fulfill the responsibilities authorized under the act, and would exempt from the Administrative Procedure Act the adoption, amendment, or repeal of a registration fee.

Existing law requires every person engaged in the state in the production or handling of raw agricultural products sold as organic to register with the county agricultural commissioner and specifies the information required on the registration form.

This bill would require those persons to instead register with the Secretary of Food and Agriculture, would revise the registration fees required to be paid by certain registrants, and would revise the information required on the registration form. The bill would also revise the type of information and records that persons who produce, handle, or retail products sold as organic are required to keep or make available.

The bill would define certain terms for purposes of the act's provisions and would make technical and conforming changes to various code sections. To the extent the bill would impose additional duties 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, 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 both of the
2 following:

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

9 (b) The purpose of amending the existing law governing the
10 state organic program is to reform fees and paperwork and to create
11 a framework whereby state organic program enforcement activities
12 are designed to supplement National Organic Program-funded
13 enforcement in California.

14 SEC. 2. Section 46000 of the Food and Agricultural Code is
15 amended to read:

16 46000. (a) This chapter and Article 7 (commencing with
17 Section 110810) of Chapter 5 of Part 5 of Division 104 of the
18 Health and Safety Code shall be known and may be cited as the
19 California Organic Food and Farming Act.

20 (b) The secretary and county agricultural commissioners under
21 the supervision and direction of the secretary shall enforce
22 regulations adopted by the National Organic Program (NOP)
23 (Section 6517 of the federal Organic Foods Production Act of 1990
24 (7 U.S.C. Sec. 6501 et seq.)), and Article 7 (commencing with
25 Section 110810) of Chapter 5 of Part 5 of Division 104 of the
26 Health and Safety Code and this act applicable to any person selling
27 products as organic.

28 SEC. 3. Section 46001 of the Food and Agricultural Code is
29 amended to read:

30 46001. This chapter shall be interpreted in conjunction with
31 Article 7 (commencing with Section 110810) of Chapter 5 of Part
32 5 of Division 104 of the Health and Safety Code and regulations
33 adopted by the National Organic Program (Section 6517 of the

1 federal Organic Foods Production Act of 1990 (7 U.S.C. Sec. 6501
2 et seq.)).

3 SEC. 4. Section 46002 of the Food and Agricultural Code is
4 amended to read:

5 46002. (a) All organic food or product regulations and any
6 amendments to those regulations adopted pursuant to the federal
7 Organic Foods Production Act of 1990 (7 U.S.C. Sec. 6501 et
8 seq.), that are in effect on the date this bill is enacted or that are
9 adopted after that date, shall be the organic food and product
10 regulations of this state.

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

14 (c) The purpose of the act shall be to do ~~all~~ *both* of the following:

15 (1) Promote coordination of federal, state, and local agencies
16 in implementing the National Organic Program.

17 ~~(2) Expand, improve, and protect the production of organic
18 products.~~

19 ~~(3) Provide technical assistance, education, outreach, and
20 guidance to the organic industry.~~

21 *(2) Support organic agriculture through education, outreach,
22 and other programmatic activities.*

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

25 SEC. 5. Section 46003 of the Food and Agricultural Code is
26 amended to read:

27 46003. (a) The secretary shall establish an advisory committee,
28 which shall be known as the California Organic Products Advisory
29 Committee, for the purpose of advising the secretary with respect
30 to his or her responsibilities under this act.

31 (b) The advisory committee shall advise the secretary on
32 education, outreach, and technical assistance for producers.

33 (c) The advisory committee shall be comprised of 15 members.
34 Each member may have an alternate. Six members and their
35 alternates shall be producers, at least one of whom shall be a
36 producer of meat, fowl, fish, dairy products, or eggs. Two members
37 and their alternates shall be processors, one member and his or her
38 alternate shall be wholesale distributors, one member and his or
39 her alternate shall be representatives of an accredited certifying
40 agency operating in the state, one member and his or her alternate

1 shall be consumer representatives, one member and his or her
2 alternate shall be environmental representatives, two members and
3 their alternates shall be technical representatives with scientific
4 credentials related to agricultural chemicals, toxicology, or food
5 science, and one member and his or her alternate shall be retail
6 representatives. Except for the consumer, environmental, and
7 technical representatives, the members of the advisory committee
8 and their alternates shall have derived a substantial portion of their
9 business income, wages, or salary as a result of services they
10 provide that directly result in the production, handling, processing,
11 or retailing of products sold as organic for at least three years
12 preceding their appointment to the advisory committee. The
13 consumer and environmental representatives and their alternates
14 shall not have a financial interest in the direct sales or marketing
15 of the organic product industry and shall be members or employees
16 of representatives of recognized nonprofit organizations whose
17 principal purpose is the protection of consumer health or protection
18 of the environment. The technical representatives and their
19 alternates shall not have a financial interest in the production,
20 handling, processing, or marketing of the organic products industry.
21 The technical representatives may be involved in organic research
22 or technical review providing they have no financial benefit from
23 results of the research project or technical review.

24 (d) An alternate member shall serve at an advisory committee
25 meeting only in the absence of, and shall have the same powers
26 and duties as, the category whom he or she is representing as
27 alternate, except for duties and powers as an officer of the
28 committee. The number of alternates present who are not serving
29 in the capacity of a member shall not be considered in determining
30 a quorum.

31 (e) An alternate member may serve at an advisory committee
32 subcommittee meeting only in the absence of, and shall have the
33 same powers and duties as, the member whom he or she is
34 designated as alternate, except for duties and powers as a
35 subcommittee chairperson.

36 (f) The members of the advisory committee and their alternates
37 shall be reimbursed for the reasonable expenses actually incurred
38 in the performance of their duties, as determined by the advisory
39 committee and approved by the secretary.

1 (g) The secretary or his or her representative, the State Public
2 Health Officer or his or her representative, and a county agricultural
3 commissioner may serve as ex officio members of the advisory
4 committee.

5 SEC. 6. Section 46003.2 is added to the Food and Agricultural
6 Code, to read:

7 46003.2. (a) To the extent that funds are available, the
8 secretary, in consultation with the California Organic Products
9 Advisory Committee, may establish procedures for and conduct
10 all of the following activities:

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

14 (2) Conduct periodic spot inspections.

15 (3) Conduct periodic prohibited substance testing on products
16 labeled as organic.

17 (4) Conduct farmers' market inspections.

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

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

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

24 (5) *Support organic agriculture through education, outreach,*
25 *and other programmatic activities.*

26 ~~(8) Reimbursement of~~

27 (6) *Reimburse* investigation, enforcement, and market
28 surveillance expenses, including expenses incurred by any county
29 agricultural commissioner for actions conducted pursuant to this
30 chapter.

31 ~~(9)~~

32 (7) Conduct hearings, appeals, mediation, or settlement
33 conferences from actions taken to enforce this chapter.

34 (b) Investigation, inspection, and prohibited material testing
35 reports shall be forwarded to the secretary for any required
36 enforcement action.

37 (c) The secretary shall coordinate activities authorized under
38 this section with other county and state licensing, registration,
39 inspection, and fee collection procedures applicable to registrants.

1 SEC. 7. Section 46004.1 of the Food and Agricultural Code is
2 amended to read:

3 46004.1. Unless defined pursuant to the National Organic
4 Program (NOP), the following words and phrases, when used in
5 this act, shall have the following meanings:

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

9 (b) “Act” means the California Organic Food and Farming Act.
10 It also means the federal Organic Foods Production Act of 1990
11 (7 U.S.C. Sec. 6501 et seq.) and the regulations adopted pursuant
12 to the federal Organic Foods Production Act of 1990 (7 U.S.C.
13 Sec. 6501 et seq.).

14 (c) “Categorical products” means categories of products of like
15 ~~commodity~~ *commodity*, such as apples, salad products, ~~ete.~~ *etc.*,
16 and does not require variety specific information.

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

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

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

26 (g) “Director” means the director and State Public Health Officer
27 for the State Department of Public Health.

28 (h) “Enforcement authority” means the governmental unit with
29 primary enforcement jurisdiction, as provided in Section 46008.

30 (i) “Exempt handler” means a handling operation that sells
31 agricultural products as “organic” but whose gross agricultural
32 income from organic sales totals five thousand dollars (\$5,000) or
33 less annually.

34 (j) “Exempt operation” means a production or handling operation
35 that sells agricultural products but is exempt from certification
36 under federal organic standards.

37 (k) “Exempt producer” means a production operation that sells
38 agricultural products as “organic” but whose gross agricultural
39 income from organic sales totals five thousand dollars (\$5,000) or
40 less annually.

1 (l) “Federal organic standards” means the federal regulations
2 governing production, labeling, and marketing of organic products
3 as authorized by the federal Organic Foods Production Act of 1990
4 (7 U.S.C. Sec. 6501 et seq.) and implemented pursuant to the
5 National Organic Program (7 C.F.R. ~~See:~~ 205 et seq.), and any
6 amendments to the federal act or regulations made subsequent to
7 the enactment of this chapter.

8 (m) “Handle” means to sell, process, or package agricultural
9 products.

10 (n) “Handler” means any person engaged in the business of
11 handling agricultural products, but does not include final retailers
12 of agricultural products that do not process agricultural products.

13 (o) “Handling operation” means any operation or portion of an
14 operation, except final retailers of agricultural products that do not
15 process agricultural products that (1) receives or otherwise acquires
16 agricultural products, and (2) processes, packages, or stores
17 agricultural products.

18 (p) “Inspection” means the act of examining and evaluating
19 production or handling operation to determine compliance with
20 state and federal law.

21 (q) “National Organic Program” or “NOP” means the National
22 Organic Program established pursuant to the federal Organic Foods
23 Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.) and the
24 regulations adopted for implementation.

25 (r) “Person” means any individual, firm, partnership, trust,
26 corporation, limited liability company, company, estate, public or
27 private institution, association, organization, group, city, county,
28 city and county, political subdivision of this state, other
29 governmental agency within the state, and any representative,
30 agent, or agency of any of the foregoing.

31 (s) “Processing” means cooking, baking, heating, drying, mixing,
32 grinding, churning, separating, extracting, cutting, fermenting,
33 eviscerating, preserving, dehydrating, freezing, or otherwise
34 manufacturing, and includes packaging, canning, jarring, or
35 otherwise enclosing food in a container.

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

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

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

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

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

13 (y) “State Organic Program” or “SOP” means a state program
14 that meets the requirements of Section 6506 of the federal Organic
15 Foods Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.), is
16 approved by the Secretary of the United States Department of
17 Agriculture, and is designed to ensure that a product that is sold
18 or labeled as organically produced under the federal Organic Foods
19 Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.) is produced
20 and handled using organic methods.

21 (z) “USDA” means the United States Department of Agriculture.

22 SEC. 8. Section 46007 of the Food and Agricultural Code is
23 amended to read:

24 46007. (a) Any penalties collected by the secretary and any
25 fees collected by a county agricultural commissioner pursuant to
26 this chapter shall be deposited in the Department of Food and
27 Agriculture Fund and, upon appropriation by the Legislature, shall
28 be expended solely to fulfill the responsibilities authorized under
29 this chapter.

30 (b) Any fees and penalties collected by a county agricultural
31 commissioner pursuant to Section 46017 and any other penalties
32 collected by a county agricultural commissioner pursuant to this
33 chapter shall be paid directly to the county agricultural
34 commissioner and expended to fulfill the responsibilities of the
35 county agricultural commissioner, as specified in this chapter.

36 (c) The secretary shall establish a specific minimum amount to
37 be reimbursed to each county agricultural commissioner per
38 registrant in that county. This reimbursement shall not limit the
39 amount of the reimbursement otherwise made to county
40 commissioners for their enforcement activities.

1 SEC. 9. Section 46010.5 of the Food and Agricultural Code is
2 amended to read:

3 46010.5. (a) No fee established and collected pursuant to this
4 chapter shall exceed the secretary's costs or the county agricultural
5 commissioner's costs, as the case may be, of regulating and
6 enforcing the provisions of this chapter related to the function for
7 which the fee is established.

8 (b) The fees established and collected pursuant to this chapter
9 may be expended, under the advisement of the California Organic
10 Products Advisory Committee, for activities authorized under this
11 chapter, including assisting operations in achieving certification,
12 conducting education and outreach, entering research and
13 development partnerships, and addressing production or marketing
14 obstacles to the growth of the organic sector.

15 SEC. 10. Section 46012 of the Food and Agricultural Code is
16 amended to read:

17 46012. Article 14 (commencing with Section 43031) of Chapter
18 2 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, agricultural commissioners, and the director shall be
24 considered enforcing officers for purposes of those provisions of
25 law under their respective jurisdiction.

26 SEC. 11. Section 46013.1 of the Food and Agricultural Code
27 is amended to read:

28 46013.1. (a) Every person engaged in this state in the
29 production or handling of raw agricultural products sold as organic
30 shall register with the secretary before the first sale of the product.
31 All processors of organic agriculturally derived products that are
32 not required to be registered as outlined in subdivision (b) shall
33 register with the secretary. Each registrant shall annually renew
34 the registration with the secretary unless no longer engaged in the
35 activities requiring the registration.

36 (b) Every person engaged in this state in the processing or
37 handling of processed products pursuant to Section 110460 of the
38 Health and Safety Code, and pet food pursuant to Section 18653,
39 and cosmetics pursuant to Section 111795 of the Health and Safety

1 Code, including processors of alcoholic beverages, ~~fish~~ *fish*, and
2 seafood, shall register with the State Public Health Officer.

3 (c) Registration pursuant to this section shall be on a form either
4 provided by the secretary or approved by the secretary and shall
5 be valid for a period of one calendar year from the date of
6 validation by the secretary ~~or county agricultural commissioner~~
7 of the completed registration form.

8 (d) The information provided on the registration form shall
9 include all of the following:

10 (1) The nature of the registrant's business, including the
11 categorical products produced, handled, or processed that are sold
12 as organic. For the purposes of registration, organic products shall
13 be categorized as follows:

14 (A) Citrus.

15 (B) Fruit and vegetable row crops.

16 (C) Livestock and dairy.

17 (D) Stone fruit.

18 (E) Tree fruit.

19 (F) Tree nuts.

20 (G) Other, which includes, but is not limited to, organic fallow
21 ground, herbs and mushrooms, cut flowers, nursery, and apiaries.

22 (2) The address or assessor's parcel number of the precise
23 location or locations where the products are produced, processed,
24 or handled.

25 (3) Sufficient information, under penalty of perjury, to enable
26 the secretary to verify the amount of the registration fee to be paid
27 in accordance with this act.

28 (4) The names of all certification organizations or governmental
29 entities, if any, providing organic certification to them.

30 (e) (1) A registration form shall be accompanied by payment
31 of a nonrefundable registration fee by producers, handlers, and
32 processors, which shall be based on total gross sales by the
33 registrant of product sold as organic in the calendar year that
34 precedes the date of registration or, if no sales were made in the
35 preceding year, then based on the expected sales during the 12
36 calendar months following the date of registration in accordance
37 with the following fee schedule. The secretary, in consultation
38 with the California Organic Products Advisory Committee, may
39 lower the amounts specified in the following fee schedule by
40 regulation.

	Gross Sales	Registration Fee
1		
2	\$ 0 – 4,999	\$ 25
3	\$ 5,000 – 10,000	\$ 50
4	\$ 10,001 – 50,000	\$ 75
5	\$ 50,001 – 250,000	\$ 100
6	\$ 250,001 – 500,000	\$ 450
7	\$ 500,001 – 1,000,000	\$ 750
8	\$ 1,000,001 – 2,500,000	\$ 1,000
9	\$ 2,500,001 – 5,000,000	\$ 1,500
10	\$ 5,000,001 – 15,000,000	\$ 2,000
11	\$ 15,000,001 – 25,000,000	\$ 2,500
12	\$ 25,000,001 – and above	\$ 3,000

13
 14 (2) Producers that sell processed product shall pay fees based
 15 on the value of raw product before being processed and the value
 16 of any product sold as unprocessed.

17 (3) Any person that packs, repacks, labels, sorts, or otherwise
 18 handles any organic product that is outside the jurisdiction of the
 19 State Public Health Officer and that does not take title or manage
 20 the sale of the product, but provides only handling services for
 21 organic product, shall register and pay one hundred dollars (\$100)
 22 per year.

23 (4) Any person that provides temporary storage or transportation
 24 for organic product and does not handle the raw unpackaged
 25 product does not have to register.

26 (5) Any person required to register pursuant to this section that
 27 fits the description of more than one of the persons described above
 28 shall pay the greater of the multiple amounts.

29 (6) The secretary may require any producer, handler, processor,
 30 or other organic registrant to provide the exact dollar amount of
 31 gross sales of twenty-five million one dollars (\$25,000,001) or
 32 more in lieu of the range specified in paragraph (1).

33 (f) The secretary may adopt regulations that supersede the terms
 34 of this section to the extent reasonably necessary to provide an
 35 online system of registration for those required to register pursuant
 36 to this section.

37 (g) The adoption, amendment, or repeal of any fee pursuant to
 38 this section shall not be subject to the requirements of Chapter 3.5
 39 (commencing with Section 11340) of Part 1 of Division 3 of Title
 40 2 of the Government Code. An order to adopt, amend, or repeal

1 the regulations concerning assessment rates pursuant to this section
2 shall be transmitted within 30 days by the secretary to the Office
3 of Administrative Law. The Office of Administrative Law shall
4 file the order promptly with the Secretary of State without further
5 review pursuant to Article 6 (commencing with Section 11349) of
6 Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government
7 Code. The order shall do all of the following:

8 (1) Indicate that the regulations are being adopted, amended,
9 or repealed pursuant to this chapter.

10 (2) State that the order is being transmitted for filing.

11 (3) Request that the Office of Administrative Law publish a
12 notice of the filing of the order and print an appropriate reference
13 in Title 3 of the California Code of Regulations.

14 SEC. 12. Section 46013.2 of the Food and Agricultural Code
15 is amended to read:

16 46013.2. (a) To the extent feasible, the secretary, in
17 consultation with the director, shall coordinate the registration and
18 annual fee collection procedures of this section with similar
19 licensing or registration procedures applicable to registrants.

20 (b) The secretary ~~or county agricultural commissioner~~ shall
21 deny a registration submission that is incomplete or not in
22 compliance with this act.

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

27 (d) (1) At the request of any person, the secretary or county
28 agricultural commissioner shall provide the following:

29 (A) The name and address of the registrant.

30 (B) The nature of the registrant's business.

31 (C) The names of all certification organizations or governmental
32 entities, if any, providing certification pursuant to the NOP and
33 this act.

34 (2) The secretary or county agricultural commissioner may
35 charge a reasonable fee for the cost of reproducing this information.
36 Except as provided in this subdivision, a registration form is
37 exempt from Chapter 3.5 (commencing with Section 6250) of
38 Division 7 of Title 1 of the Government Code.

39 (e) The secretary, in consultation with the California Organic
40 Products Advisory Committee, may suspend the registration

1 program set forth in this section if the secretary determines that
2 income derived from registration fees is insufficient to support a
3 registration enforcement program.

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

6 (g) The registration revocation process shall be in conjunction
7 with other provisions of this act. The secretary or county
8 agricultural commissioner's office may initiate the revocation
9 process for failure to comply with the NOP or this act. Any person
10 against whom the action is being taken shall have the opportunity
11 to appeal the action and be afforded the opportunity to be heard
12 in an administrative appeal. This appeal shall be administered by
13 either the state or county agricultural commissioner's office.

14 (h) When the registration fee is not paid within 60 days from
15 the expiration date, the account shall be considered closed and the
16 registration voided. A notification shall be sent to the registrant
17 and the certifier, if applicable, notifying them the registrant is no
18 longer able to market products as organic until the account is paid
19 in full.

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

25 SEC. 13. Section 46014.1 of the Food and Agricultural Code
26 is amended to read:

27 46014.1. (a) Any certification agency that certifies product in
28 this state sold as organic shall register with the secretary and shall
29 thereafter annually renew the registration, unless the organization
30 is no longer engaged in the activities requiring the registration.
31 Registration shall be on a form provided by the secretary, shall
32 include a copy of accreditation by the USDA or proof of
33 application if applicable. The secretary, in consultation with the
34 California Organic Products Advisory Committee, shall establish
35 a registration fee not to exceed five hundred dollars (\$500) annually
36 for certifying agencies operating within the state.

37 (b) Each certification agency shall pay to the secretary an annual
38 registration fee of twenty-five dollars (\$25) for each client they
39 have certified in this state up to a maximum of two hundred fifty
40 dollars (\$250). Any registration submitted by a certification agency

1 shall be made available to the public for inspection and copying.
2 The secretary may audit the agency's certification procedures and
3 records at any time, but any records of the certification agency not
4 otherwise required to be disclosed shall be kept confidential by
5 the secretary.

6 (c) An accredited certifying agency may submit an annual
7 registration fee and application on behalf of their client provided
8 that all of the information required under Section 46013.1 is
9 included when remitting applicable fees to the secretary.

10 (d) The secretary and the county agricultural commissioners
11 under the supervision of the secretary shall, if requested by a
12 sufficient number of persons to cover the costs of the program in
13 a county as determined by the secretary, establish a certification
14 program. This program shall meet all of the requirements of this
15 act. In addition, this program shall meet all of the requirements of
16 the federal certification program, including federal accreditation.
17 The secretary shall establish a fee schedule for participants in this
18 program that covers all of the secretary's reasonable costs of the
19 program. A county agricultural commissioner that conducts a
20 voluntary certification program pursuant to this section shall
21 establish a fee schedule for participants in this program that covers
22 all of the county's reasonable costs of the program. The secretary
23 shall not expend funds obtained from registration fees collected
24 under this chapter for the purposes of adopting or administering
25 this program. The certification fee authorized by this subdivision
26 is due and payable on January 1 or may be prorated before the
27 10th day of the month following the month in which the decision
28 to grant the certification is issued. Any person who does not pay
29 the amount that is due within the required period shall pay the
30 enforcement authority providing the certificate a penalty of 10
31 percent of the total amount determined to be due, plus interest at
32 the rate of 1.5 percent interest per month on the unpaid balance.

33 (e) Notwithstanding any other law, any certification agency that
34 certifies product in this state sold as organic shall immediately
35 make the following records available for inspection by, and shall
36 upon request within three business days of the request provide a
37 copy to, the secretary or county agricultural commissioner:

38 (1) Records obtained from applicants for certification and
39 certified operations.

1 (2) Records created by the certifying agent regarding applicants
2 for certification and certified operations.

3 (3) Any record required to be kept under the National Organic
4 Program (Section 6517 of the federal Organic Foods Production
5 Act of 1990 (7 U.S.C. Sec. 6501 et seq.) and 7 C.F.R. 205 et seq.),
6 Article 7 (commencing with Section 110810) of Chapter 5 of Part
7 5 of Division 104 of the Health and Safety Code, and this act
8 applicable to any person selling products as organic.

9 (f) Records acquired pursuant to this section shall not be public
10 records as that term is defined in Section 6252 of the Government
11 Code and shall not be subject to Chapter 3.5 (commencing with
12 Section 6250) of Division 7 of Title 1 of the Government Code.

13 SEC. 14. Section 46014.2 of the Food and Agricultural Code
14 is amended to read:

15 46014.2. (a) All products sold as organic in California shall
16 be certified by an accredited certifying agent if they are required
17 to be certified under the federal act.

18 (b) Product shall be sold as organic only in accordance with this
19 act.

20 (c) A certification agency shall be accredited by the USDA as
21 provided in the NOP.

22 SEC. 15. Section 46014.4 of the Food and Agricultural Code
23 is amended to read:

24 46014.4. A registered certification agency shall submit to the
25 secretary every January and June a list of all persons whose
26 production or processing of product in California is certified. The
27 list shall be publicly available within 30 days after the end of each
28 filing period. A certifier that keeps a current list on an Internet
29 Web site available to the public may be deemed to meet this
30 requirement.

31 SEC. 16. Section 46014.6 of the Food and Agricultural Code
32 is amended to read:

33 46014.6. Only products that have been produced and handled
34 in accordance with this act may be certified by a registered
35 certification agency.

36 SEC. 17. Section 46016.4 of the Food and Agricultural Code
37 is amended to read:

38 46016.4. The appeal shall be submitted to the secretary in
39 writing within 30 days of the date ~~of the action~~, *action* or the letter
40 proposing the action. The secretary's proceeding shall, insofar as

1 practicable, comply with the provisions of the Administrative
2 Procedure Act, Chapter 5 (commencing with Section 11500) of
3 Part 1 of Division 3 of Title 2 of the Government Code, except
4 that a Department of Food and Agriculture hearing officer may be
5 used.

6 SEC. 18. Section 46016.5 of the Food and Agricultural Code
7 is amended to read:

8 46016.5. As provided for in regulations adopted by the NOP,
9 the action proposed by a *an* NOP accredited certification agency
10 against a client may be appealed to the secretary for mediation.

11 SEC. 19. Section 46021 of the Food and Agricultural Code is
12 amended to read:

13 46021. (a) It is unlawful for any person to certify any product
14 in violation of this act.

15 (b) It is unlawful for any person to certify a product or company
16 as organic unless duly registered as a certification agency pursuant
17 to this act.

18 (c) It is unlawful for any person to willfully make a false
19 statement or representation, or knowingly fail to disclose a fact
20 required to be disclosed, in registration for a certification agency
21 pursuant to this act.

22 SEC. 20. Section 46028 of the Food and Agricultural Code is
23 amended to read:

24 46028. All persons who produce, handle, or retail products that
25 are sold as organic shall keep accurate and specific records as
26 required by the secretary in consultation with the California
27 Organic Products Advisory Committee.

28 SEC. 21. If the Commission on State Mandates determines
29 that this act contains costs mandated by the state, reimbursement
30 to local agencies and school districts for those costs shall be made
31 pursuant to Part 7 (commencing with Section 17500) of Division
32 4 of Title 2 of the Government Code.