

AMENDED IN ASSEMBLY MARCH 9, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2239

Introduced by Assembly Member Mathis

February 18, 2016

An act to amend Section 12841 of the Food and Agricultural Code, relating to pesticides.

LEGISLATIVE COUNSEL’S DIGEST

AB 2239, as amended, Mathis. Pesticides: assessments on sales: combination products.

Existing law requires every person who sells a pesticide product for use in this state that has been registered by the Director of Pesticide Regulation to pay an assessment on all sales of the pesticide product, and requires the director to establish by regulation a mill assessment rate, not to exceed ~~21 mills (\$0.021)~~, *\$0.021*, as specified. Existing law requires the assessment for certain combination pesticide products to be based on the value of the active ingredient only if the director makes specified findings, including that the device is sold primarily for other than a pesticide use.

This bill would instead require the director, upon application for registration of a combination product, to determine the value of the active ingredients in the combination product and to establish the rate of assessment based on the percentage of the sales price attributable to the value of the active ingredients. The bill would define “active ingredient” and “combination product” for purposes of those provisions, and would make other nonsubstantive changes.

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

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

SECTION 1. Section 12841 of the Food and Agricultural Code is amended to read:

12841. (a) It is unlawful for a person to sell for use in this state any pesticide products that have been registered by the director for which the mill assessment established by this article, and the regulations adopted pursuant to it, is not paid at the times specified in Section 12843.

(b) Except as provided in subdivision (d), every person who sells for use in this state a pesticide product that has been registered by the director shall pay to the director the applicable assessment. Those sales expressly include all sales made electronically, telephonically, or by any other means that result in a pesticide product being shipped to or used in this state. There is a rebuttable presumption that pesticide products that are sold or distributed into or within this state by any person are sold or distributed for use in this state.

(c) (1) Upon application for registration of a combination product, the director shall determine the value of the active ingredients in the combination product and shall establish the rate of assessment based on the percentage of the sale price attributable to the value of the active ingredients. An assessment shall not be paid on the percentage of the sale price attributable to the value of the instrument or appliance with which the active ingredients are incorporated.

(2) *An applicant for registration of a combination product may contest the director's determination by appealing to the Secretary of the California Environmental Protection Agency.*

(d) Assessments provided for in this article for sales of registered pesticides that are sold for use in this state shall be paid by the registrant except as follows:

(1) If the registrant did not first sell the pesticide in this state or have actual knowledge, at the time of its sale, that the pesticide would be sold for use in this state, the assessment shall be paid by the licensed pesticide broker, licensed pest control dealer, or other person who first sold the pesticide for use in this state.

(2) A person is not required to pay an assessment on registered products that are labeled only for use in further manufacturing or formulating of pesticides.

1 (e) It has been and continues to be the intent of the Legislature
2 that this division requires the department to register all pesticides
3 before their sale for use in this state and, except as otherwise
4 provided by law, requires the department to regulate and control
5 the use of pesticides in accordance with this division. Except as
6 provided in Section 12841.1, the department shall continue to
7 collect the assessment as provided in this article at the same rate
8 on all registered agricultural and registered nonagricultural
9 pesticides.

10 (f) (1) The mill assessment shall be paid at the following rates
11 per dollar of sales for all sales of pesticides for use in this state:

12 (A) From January 1, 1998, to March 31, 1999, inclusive, the
13 rate shall be 15.15 mills (\$0.01515) plus any additional assessment
14 authorized by Section 12841.1.

15 (B) From April 1, 1999, to December 31, 2002, inclusive, the
16 rate shall be 17.5 mills (\$0.0175) plus any additional assessment
17 authorized by Section 12841.1.

18 (C) From January 1, 2003, to December 31, 2003, inclusive,
19 the rate shall be 17.5 mills (\$0.0175).

20 (D) For all transactions on or after January 1, 2004, the actual
21 rate shall be that set by regulations adopted by the director at a
22 rate adequate to support the department's annual expenditures
23 authorized in the annual Budget Act and provide a prudent reserve.
24 The rate set by the director shall be no greater than 21 mills
25 (\$0.021). However, if regulations are not adopted before a payment
26 is due, payment shall be made at the rate of 17.5 mills (\$0.0175),
27 and, upon adoption of regulations, payment of any additional
28 amount due shall be made.

29 (2) The regulations adopted pursuant to this section, or any
30 amendment thereto, shall be adopted by the director in accordance
31 with Chapter 3.5 (commencing with Section 11340) of Part 1 of
32 Division 3 of Title 2 of the Government Code. However, the
33 adoption, amendment, readoption, or repeal of these regulations
34 shall be considered by the Office of Administrative Law as an
35 emergency, and necessary for the immediate preservation of the
36 public peace, health, safety, and general welfare. Notwithstanding
37 any other law, the regulations shall remain in effect until amended
38 by the director. The director shall make available to the public,
39 upon the adoption of an emergency regulation establishing a new

1 rate, the information upon which the director has calculated, based,
2 or determined the new rate.

3 (g) The revenue collected pursuant to this section shall be
4 deposited in the Department of Pesticide Regulation Fund and
5 distributed as follows:

6 (1) Notwithstanding Sections 2282 and 12784, the director shall
7 pay, in accordance with the criteria set forth in Section 12844, the
8 following amounts to the counties as reimbursement for costs
9 incurred by the counties in the administration and enforcement of
10 Division 6 (commencing with Section 11401), this chapter, Chapter
11 3 (commencing with Section 14001), Chapter 3.4 (commencing
12 with Section 14090), and Chapter 3.5 (commencing with Section
13 14101):

14 (A) From January 1, 1998, to March 31, 1998, inclusive,
15 five-eighths of the money received during that period pursuant to
16 this section.

17 (B) From April 1, 1998, to June 30, 2004, an amount equal to
18 the revenue derived from 6 mills (\$0.006) per dollar of sales for
19 all pesticide sales for use in this state.

20 (C) Beginning July 1, 2004, an amount equal to the revenue
21 derived from 7.6 mills (\$0.0076) per dollar of sales for all pesticide
22 sales for use in this state.

23 (2) All funds not otherwise distributed pursuant to this
24 subdivision shall remain in the Department of Pesticide Regulation
25 Fund and shall be available for expenditure, upon appropriation,
26 to support the department's operations.

27 (h) For purposes of this section, the following definitions apply:

28 (1) "Active ingredient" means any active ingredient required
29 to be stated on the label of a pesticide pursuant to Section 12883.

30 (2) "Combination product" means a pesticide product with one
31 or more active ingredients combined with an instrument or
32 appliance used to deliver the pesticide that is sold with the
33 pesticide.