

AMENDED IN ASSEMBLY MAY 27, 2016  
AMENDED IN ASSEMBLY MARCH 18, 2016  
CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2324**

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**Introduced by Assembly Member Eggman**

February 18, 2016

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An act to amend Sections 47000.5, 47001, ~~47004, 47020, and 47021~~  
~~and 47004~~ of, and to add Section 47005.4 to, the Food and Agricultural  
Code, relating to certified farmers' markets.

LEGISLATIVE COUNSEL'S DIGEST

AB 2324, as amended, Eggman. Certified farmers' markets.

Existing law provides for the regulation of certified farmers' markets and authorizes the Secretary of Food and Agriculture to adopt regulations to encourage the direct sale by farmers to the public of all types of California agricultural products. Existing law requires vendors of agricultural products selling within a certified farmers' market to comply with specified requirements. Existing law makes it unlawful to violate the provisions regulating certified farmers' markets, and authorizes the secretary or a county agricultural commissioner, in lieu of prosecution, to levy a civil penalty against a person who violates those provisions. Existing law defines "agricultural product" for purposes of the certified farmers' market provisions.

This bill would revise the definition of "agricultural product" to include wool, and would also specify that certain products that are not agricultural products may be sold at a certified farmers' market if the operator of the certified farmers' market ensures that certain conditions are satisfied, including that the product is offered for sale by a producer

~~who is authorized to sell agricultural products at the certified farmers' market. raw sheared wool.~~

This bill would specify the Legislature's intent that the secretary, in adopting those regulations and regulations clarifying the provisions regulating certified farmers' markets, endeavor to keep costs incurred by farmers and certified farmers' market operators at a minimum.

This bill would additionally require vendors of agricultural products at certified farmers' markets to keep specified sales records for at least 12 months and would require a vendor to make those records available for inspection by any state or county enforcement agency within 3 business days of delivery of the request or within a reasonable time period, as specified. The bill would also require a certified farmers' market operator, upon written request by a state or county enforcement agency pursuant to an investigation of an alleged violation of a specified law, to commence to note and make record of the product identity of all fresh fruits and vegetables offered for sale by a vendor, and to furnish the agency with a copy of those notes and records within 3 business days of a subsequent request or within a reasonable time period, as specified. By imposing additional requirements on vendors and operators of certified farmers' markets, the violation of which would be a crime, the bill would impose a state-mandated local program.

~~Existing law requires a producer to obtain a certified producer's certificate from a county agricultural commissioner before selling at a certified farmers' market and also requires the Department of Food and Agriculture to maintain a current listing of certified producers.~~

~~This bill would require a county agricultural commissioner to forward a digital copy of each certified producer's certificate issued to the department and would require the department to maintain an online, publicly accessible database listing all current certified producer certificates. By imposing 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 with regard to certain mandates no reimbursement is required by this act for a specified reason.~~

~~With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.~~

*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 no reimbursement is required by this act for a specified reason.*

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

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

1 SECTION 1. Section 47000.5 of the Food and Agricultural  
2 Code is amended to read:  
3 47000.5. The following definitions apply to this chapter, unless  
4 otherwise specified:  
5 (a) (1) "Agricultural product" means a fresh or processed  
6 product produced in California, including fruits, nuts, vegetables,  
7 herbs, mushrooms, dairy, shell eggs, honey, pollen, unprocessed  
8 bees wax, propolis, royal jelly, flowers, grains, nursery stock, *raw*  
9 *sheared* wool, livestock meats, poultry meats, rabbit meats, and  
10 fish, including shellfish that is produced under controlled  
11 conditions in waters located in California.  
12 (2) Products that are characterized as services, arts, crafts,  
13 bakery, candies, soaps, balms, perfumes, cosmetics, pottery,  
14 clothing, fabrics, pastas, compost, fertilizers, candles, ceramics,  
15 foraged foods, and types of wares are not agricultural products for  
16 purposes of this chapter. A product that combines an agricultural  
17 product with a nonagricultural product or service in a manner that  
18 materially increases the purchase price of the product shall  
19 disqualify the product from being sold as an agricultural product  
20 for purposes of this chapter. ~~A product that is not an agricultural~~  
21 ~~product may be sold within the location of a certified farmers'~~  
22 ~~market if the operator of the certified farmers' market ensures that~~  
23 ~~the following conditions are satisfied:~~  
24 (A) ~~The product is composed entirely of agricultural products~~  
25 ~~grown by the producer, except for incidental ingredients and~~  
26 ~~flavorings.~~  
27 (B) ~~The product is being offered for sale by a producer who is~~  
28 ~~otherwise authorized to sell agricultural products at the certified~~  
29 ~~farmers' market.~~

1 (b) “Practice of the agricultural arts” means the undertaking of  
2 being predominantly responsible for the decisions and actions  
3 encompassing the various phases of producing an agricultural  
4 product. The practice of the agricultural arts for fruit, floral, nut,  
5 vegetable, and other plant products includes directive or actual  
6 responsibility for all the actions of planting, growing, fertilizing,  
7 irrigating, cultivating, pest control, and harvesting. The practice  
8 of the agricultural arts for agricultural animal products includes  
9 directive or actual responsibility for a substantial time of the  
10 raising, feeding, veterinary care, and product harvesting.

11 (c) “Producer” means a person, partnership, corporation, or an  
12 otherwise legally formed farm or ranch that produces agricultural  
13 products by the practice of the agricultural arts upon land that the  
14 person or entity owns, rents, leases, sharecrops, or otherwise  
15 controls and has the documented legal right to possession. A person  
16 or entity that rents, leases, or otherwise acquires the right to  
17 possession of property essentially only for or limited to the period  
18 of the harvest season of the agricultural products produced on that  
19 property shall not be considered a producer under the provisions  
20 of this chapter.

21 SEC. 2. Section 47001 of the Food and Agricultural Code is  
22 amended to read:

23 47001. (a) The secretary may adopt regulations to encourage  
24 the direct sale by farmers to the public of all types of California  
25 agricultural products. It is the intent of the Legislature that, in  
26 adopting those regulations, the secretary shall endeavor to keep  
27 costs incurred by farmers and certified farmers’ market operators  
28 to a minimum, recognizing that any administrative costs imposed  
29 on farmers and certified farmers’ market operators are generally  
30 passed on in the form of increased prices to the public, thus  
31 economically benefiting neither the public nor the farmer.

32 (b) In accordance with the intent expressed in subdivision (a),  
33 the secretary may adopt regulations clarifying the provisions of  
34 this chapter, including the adoption of regulations for maintaining  
35 the quality and wholesomeness of the products offered for sale  
36 and promoting and fostering honest selling activities for those  
37 products.

38 (c) The secretary may enter into a cooperative agreement with  
39 a county agricultural commissioner to carry out the provisions of  
40 this chapter, including, but not limited to, administration,

1 investigations, inspections, registrations, and assistance pertaining  
2 to direct marketing producers and outlets. Compensation under  
3 the cooperative agreement shall be paid from assessments and fees  
4 collected and deposited pursuant to this chapter and shall provide  
5 reimbursement to the county agricultural commissioner for  
6 associated costs exclusive of the costs of certification and minimum  
7 inspections required pursuant to Section 47020.

8 (d) Upon reasonable suspicion of a violation of Section 890, a  
9 certified farmers' market operator may contract with a county  
10 agricultural commissioner for a special onsite field or storage  
11 verification inspection of a direct marketing producer selling in a  
12 certified farmers' market operated and controlled by the operator.  
13 All contracts and contract fees are subject to the discretion of the  
14 county agricultural commissioner in the county where the  
15 verification inspections are being requested.

16 SEC. 3. Section 47004 of the Food and Agricultural Code is  
17 amended to read:

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

22 (b) The operator of a certified farmers' market shall establish  
23 a clearly defined marketing area where only agricultural products  
24 may be sold. Only the producer or the lawful authorized  
25 representative of the producer may sell agricultural products within  
26 the area defined as a certified farmers' market. Sales of agricultural  
27 products purchased from another individual or entity shall not  
28 occur within a certified farmers' market, and an agricultural product  
29 producer or product dealer shall not sell his or her agricultural  
30 products to another individual or entity with the understanding or  
31 knowledge that the products are intended to be resold in a certified  
32 farmers' market in violation of this chapter or the regulations  
33 adopted pursuant to this chapter. Every producer selling within a  
34 certified farmers' market shall comply with Section 47020.

35 (c) All vendors of agricultural products selling within a certified  
36 farmers' market shall do all of the following:

37 (1) Post a conspicuous sign or banner at the point of sale that  
38 states the name of the farm or ranch, the county where the farm  
39 or ranch maintains the production grounds that produced the  
40 products being offered for sale is located, and a statement that "We

1 Grew What We Are Selling” or “We Raised What We Are Selling”  
2 or “We Grow What We Sell” or similar phrases that clearly  
3 represent that the farm or ranch is only selling agricultural products  
4 that they themselves have grown or raised on California land that  
5 they possess or control. Product sales by different farms at the  
6 same vendor stand shall separate the products from each farm or  
7 ranch and correspondingly post the required sign or banner in  
8 direct relationship with the sales display of the products produced  
9 by each farm.

10 (2) Ensure that all processed agricultural products that they offer  
11 for sale state in a clear manner by package label, container label,  
12 or bulk sales signage that they consist only, with the exception of  
13 incidental flavorings and necessary preservatives, of agricultural  
14 products grown or raised by the farm or ranch selling them, the  
15 farm or ranch name, and the city where the farm or ranch is located.  
16 In addition, every processed product shall identify on a package  
17 label, container label, or on bulk sales signage the registration  
18 number or other identity reference of the facility where the food  
19 was processed, or another required labeling statement or  
20 information, in accordance with Sections 110460, 114365, and  
21 114365.2 of the Health and Safety Code, or, in the case of meat  
22 or poultry products, the identity of the facility where the meat or  
23 poultry products were cut and wrapped, in accordance with the  
24 applicable United States Department of Agriculture or State of  
25 California inspection standards, or, in the case of dairy products,  
26 the identity of the facility where the dairy products were  
27 manufactured or processed.

28 (3) Ensure all products being represented or offered for sale as  
29 organic are clearly labeled or have conspicuous and posted  
30 point-of-sale signage identifying the products as organic.

31 (4) Keep product identity, product variety, and quantity of sales  
32 records for all agricultural product sales made to ~~consumers~~ *the*  
33 *public* from each certified farmers’ market at which products were  
34 sold. Records of these product sales shall be maintained by the  
35 vendor for at least 12 months from the date of sale.

36 (5) Keep product identity and relative measured weight or  
37 volume records of all unprocessed agricultural product delivered  
38 to a processing facility for purposes of creating processed  
39 agricultural product intended for sale to the ~~public~~, *public at*  
40 *certified farmers’ markets*, including the name and address of the

1 processor, the dates when the unprocessed product was delivered  
2 by the vendor to the processor, the dates when the processed  
3 product was delivered to the vendor by the processor, the character  
4 and type of processed agricultural product produced by the  
5 processor for the vendor, and the relative measured weight or  
6 volume of the processed product delivered back to the vendor.  
7 These records shall be maintained by the vendor for a minimum  
8 of 12 months from the date the vendor received the product from  
9 the processor.

10 (d) Upon a written request that specifically identifies the  
11 information desired, the records required to be kept pursuant to  
12 paragraphs (4) and (5) of subdivision (c) shall be made available  
13 for inspection during normal business hours to any state or county  
14 enforcement agency charged with enforcement of this chapter  
15 within three business days of the delivery of the request, or within  
16 a similar period of time that is reasonable for the circumstances  
17 prevailing at the time.

18 (e) The representations required pursuant to subdivision (c)  
19 shall be subject to the provisions and penalties specified in Section  
20 890.

21 (f) An operator of a certified farmers' market that also operates,  
22 manages, or otherwise controls a separate sales activity or vending  
23 event or marketing area in close proximity, adjacent, or contiguous  
24 to the operator's certified farmers' market shall not allow the sale  
25 or distribution of fresh whole fruits, nuts, vegetables, cultivated  
26 mushrooms, herbs, and flowers by vendors selling within those  
27 sales activity or vending event or marketing areas.

28 (g) The operator of a certified farmers' market shall keep an  
29 accurate participation record of the individual direct marketing  
30 producers whose agricultural products were presented for sale in  
31 their market each market day. The operators shall submit to the  
32 department a quarterly report of the registration numbers and  
33 participation frequency of the direct marketing producers whose  
34 agricultural products were presented for sale in the operator's  
35 market during that past quarter. The department shall create and  
36 maintain online capability for reporting.

37 (h) Operators of certified farmers' markets may establish rules  
38 and procedures that are more restrictive and stringent than state  
39 laws or regulations governing or implementing this chapter, so

1 long as the rules and procedures are not in conflict with state laws  
2 or regulations.

3 (i) Except for certified farmers’ markets operated by government  
4 agencies, nonprofit entities and other qualified operators of certified  
5 farmers’ markets shall be considered private entities and may take  
6 actions, adopt rules, and impose requirements they deem necessary  
7 for the proper and honest operation of their market, subject to the  
8 application of any state or other laws. Government agency  
9 operators of certified farmers’ markets are subject to applicable  
10 state laws, the regulations and laws of the governing agency, and  
11 other laws governing the conduct and actions they may take as a  
12 governmental entity.

13 SEC. 4. Section 47005.4 is added to the Food and Agricultural  
14 Code, to read:

15 47005.4. (a) Pursuant to an investigation of an alleged violation  
16 of Section 890, and upon a request by a state or county enforcement  
17 agency specifying the vendor’s name, farmers’ market location,  
18 and farmers’ market date, the operator of a certified farmers’  
19 market shall commence to note and make record of the product  
20 identity of all fresh fruits and vegetables that the vendor offered  
21 for sale on the specified farmers’ market date. The operator shall  
22 furnish to the agency copies of those notes and records within three  
23 business days of the delivery of a subsequent written request or  
24 within a similar period of time that is reasonable for the  
25 circumstances prevailing at the time of request.

26 (b) Nothing in this ~~section~~ *chapter* shall be interpreted to  
27 preclude the creation and keeping of additional information that  
28 a certified farmers’ market operator may endeavor itself to create  
29 and keep, or to contractually require the provision of by a vendor  
30 as a condition to selling in the operator’s farmers’ market.

31 ~~SEC. 5. Section 47020 of the Food and Agricultural Code is~~  
32 ~~amended to read:~~

33 ~~47020. (a) An operator of a certified farmers’ market shall~~  
34 ~~annually register with the department by applying for and obtaining~~  
35 ~~a certificate from the county agricultural commissioner’s office in~~  
36 ~~the county in which the certified farmers’ market is located. The~~  
37 ~~application shall include the times and location of the farmers’~~  
38 ~~market, the name and contact information for the operator of the~~  
39 ~~farmers’ market, and the agent for service of process for the~~  
40 ~~operator. Upon approval of an application, the county agricultural~~

1 commissioner shall issue to the operator a certified farmers' market  
2 certificate:

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

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

24 ~~(B) A declaration made pursuant to subparagraph (A) shall not  
25 be used to infer that the producer is not required to comply with  
26 other state or federal laws relative to food safety and good  
27 agricultural practices.~~

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

37 ~~(3) A certified producer's certificate issued by a county  
38 agricultural commissioner shall be valid for up to 12 months from  
39 the date of issue and may be renewed annually thereafter. The  
40 county agricultural commissioner in each county shall perform at~~

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

17 (4) A county agricultural commissioner shall forward a digital  
 18 copy of each certified producer's certificate issued to the  
 19 department, and the department shall post each certified producer's  
 20 certificate on the department's Internet Web site in a timely  
 21 manner.

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

31 SEC. 6. Section 47021 of the Food and Agricultural Code is  
 32 amended to read:

33 47021. (a) Every operator of a certified farmers' market shall  
 34 remit to the department, within 30 days after the end of each  
 35 quarter, a fee equal to the number of vendors participating and  
 36 selling goods under the authority and management of the certified  
 37 farmers' market operator participating on each farmers' market  
 38 day for the entire previous quarter. The fee shall be two dollars  
 39 (\$2) for each vendor whose products were presented for sale on  
 40 each farmers' market day. A certified farmers' market operator

1 may directly recover all or part of the fee from the participating  
2 vendors. An operator of a certified farmers' market located in a  
3 county with a population of less than 400,000 that allows only  
4 vendors of agricultural products produced by producers on land  
5 located in the same county as the certified farmers' market may  
6 petition the secretary for a vendor fee of one dollar (\$1). The  
7 petition shall include a statement of verification of the information  
8 upon which the petition is based by the county agricultural  
9 commissioner in the county where the certified farmers' market  
10 is located.

11 (b) An operator of a certified farmers' market who fails to pay  
12 the required fee within 30 days after the end of the quarter in which  
13 it is due shall pay to the department a monthly interest charge on  
14 the unpaid balance and a late penalty charge, to be determined by  
15 the department and not to exceed the maximum amount permitted  
16 by law.

17 (c) All fees collected pursuant to this section shall be deposited  
18 in the Department of Food and Agriculture Fund. The money  
19 generated by the imposition of the fees shall be used, upon  
20 appropriation by the Legislature, by the department to cover the  
21 reasonable costs to carry out this chapter, including all of the  
22 following actions undertaken by the department:

23 (1) The coordination of the Certified Farmers' Market Advisory  
24 Committee or any ad hoc direct marketing advisory committee.

25 (2) The evaluation of county enforcement actions and assistance  
26 with regard to multiple county enforcement problems.

27 (3) The adoption of regulations to carry out the provisions of  
28 this chapter pertaining to certified farmers' markets.

29 (4) Hearings from actions taken to enforce this chapter.

30 (5) The maintenance of a current statewide listing of certified  
31 farmers' markets locations.

32 (6) The maintenance of an online, publicly accessible database  
33 listing all current certified producer certificates.

34 (7) The dissemination to all certified farmers' markets  
35 information regarding the suspension or revocation of any  
36 producer's certificate and the imposition of administrative  
37 penalties.

38 (8) Other actions, including the maintenance of special fund  
39 reserves, that are recommended by the Certified Farmers' Market  
40 Advisory Committee or any ad hoc direct marketing advisory

1 committee and approved by the department for purposes of carrying  
2 out this chapter pertaining to certified farmers' markets.

3 ~~(9) Investigation and enforcement expenses, including expenses~~  
4 ~~incurred by any county agricultural commissioner for actions~~  
5 ~~conducted pursuant to this chapter.~~

6 ~~SEC. 7. No reimbursement is required by this act pursuant to~~  
7 ~~Section 6 of Article XIII B of the California Constitution for certain~~  
8 ~~costs that may be incurred by a local agency or school district~~  
9 ~~because, in that regard, this act creates a new crime or infraction,~~  
10 ~~eliminates a crime or infraction, or changes the penalty for a crime~~  
11 ~~or infraction, within the meaning of Section 17556 of the~~  
12 ~~Government Code, or changes the definition of a crime within the~~  
13 ~~meaning of Section 6 of Article XIII B of the California~~  
14 ~~Constitution.~~

15 ~~However, if the Commission on State Mandates determines that~~  
16 ~~this act contains other costs mandated by the state, reimbursement~~  
17 ~~to local agencies and school districts for those costs shall be made~~  
18 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~  
19 ~~4 of Title 2 of the Government Code.~~

20 ~~SEC. 5. No reimbursement is required by this act pursuant to~~  
21 ~~Section 6 of Article XIII B of the California Constitution because~~  
22 ~~the only costs that may be incurred by a local agency or school~~  
23 ~~district will be incurred because this act creates a new crime or~~  
24 ~~infraction, eliminates a crime or infraction, or changes the penalty~~  
25 ~~for a crime or infraction, within the meaning of Section 17556 of~~  
26 ~~the Government Code, or changes the definition of a crime within~~  
27 ~~the meaning of Section 6 of Article XIII B of the California~~  
28 ~~Constitution.~~