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AMENDED IN SENATE JUNE 27, 1996
AMENDED IN ASSEMBLY APRIL 22, 1996

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL

No. 2264

Introduced by Assembly Member Poochigian

February 14, 1996

An act to amend Sections 11404, 11501, 12112, ~~12115~~, 12753, 12815, 12825, 12841, 12842, 12843, 12844, 12845, 12846, 12847, and 12931 of, to amend and renumber Sections 12115.3, 12115.5, and 12115.6 of, to add Sections 11472, 11472.1, and 12753.5 to, to add Chapter 10 (commencing with Section 12400) to Division 6 of, to repeal Sections ~~12115~~, 12115.1, 12115.2, and 12115.4 of, to add and repeal Section 12815.5 to, to repeal the heading of Article 1.5 (commencing with Section 12115) of Chapter 7 of Division 6 of, to repeal Section 12932 of, and to repeal Article 4.6 (commencing with Section 12848) of Chapter 2 of Division 7 of, and to repeal and add Sections 12824 and 12841.1 to, and to repeal and add Article 1.5 (commencing with Section 14021) of Chapter 3 of Division 7 of, the Food and Agricultural Code, relating to economic poisons.

LEGISLATIVE COUNSEL'S DIGEST

AB 2264, as amended, Poochigian. Economic poisons.

(1) Existing law requires every manufacturer, importer, or dealer in any economic poison to obtain a certificate of

registration from the Department of Pesticide Regulation before the economic poison is offered for sale in this state. Existing law requires a thorough evaluation by the department before a substance is registered as an economic poison for the first time in this state. Existing law requires the Director of Pesticide Regulation to register each economic poison that is sought to be registered if the manufacturer, importer, or dealer in economic poisons that applies for registration has complied with the laws of this state governing registration. For the purposes of the law relating to the registration of economic poisons, the term “economic poison” is defined, and includes “pesticide.”

This bill would require the director to review an application to register a pesticide or an amendment of a registration and to issue a decision approving or disapproving the application within 150 days. For actions other than registrations or amendments to registrations, the department would be required to complete its processing within 90 days. The bill would ~~require~~ *permit* the director to consider certain evaluations made pursuant to the federal Insecticide, Fungicide, and Rodenticide Act in conducting his or her evaluation. The bill would also substitute the use of the word “pesticide” for the term “economic poison” in those provisions.

(2) Existing law establishes the Department of Pesticide Regulation Fund. Existing law requires that moneys paid into the fund be expended solely for the enforcement of the law under which the money was derived.

This bill would require the director to keep a separate record of the classes and sources of income that is credited to, and disbursed from, that fund. The bill would require the department to publish an annual financial report detailing the amount and source of funding of, and the costs to operate, each branch of the department, and would require that the report be available to the public.

(3) Existing law regulates economic poisons and requires each registrant of pesticides and certain licensed pesticide dealers to pay to the director specified assessments per dollar of sales for all sales by the registrant or dealer.

This bill would revise these provisions, as specified.



(4) The bill would also revise and recast the statutes governing pesticide brokers.

(5) Existing law requires the director, in consultation with the State Department of Health Services and the State Air Resources Board, to evaluate the health effects of pesticides that may be or are emitted into the ambient air of California, and which may be determined to be a toxic air contaminant that poses a present or potential hazard to human health. Upon completion of the evaluation, the director is required to prepare a report on the health effects of a pesticide that may be determined to be a toxic air contaminant that poses a present or potential hazard to human health due to airborne emission from its use and to submit the report to a scientific review panel, which reviews the report and submits its written findings to the director. Following receipt of the findings of the scientific review panel, the director is required to prepare a hearing notice and a proposed regulation that includes the proposed determination as to whether a pesticide is a toxic air contaminant.

This bill would require the department to consult with the Office of Environmental Health Hazard Assessment in making that evaluation. This bill would instead require the director to determine the need for mitigation measures for any pesticide determined to pose a significant risk to human health, and would specify the means by which mitigation may be accomplished. The bill would require the director to initiate a formal reevaluation of the pesticide if the director determines that mitigation measures implemented are not effective and that continued use of the pesticide poses a significant risk to human health. The bill would permit the director in those instances to suspend or cancel the registration of the pesticide. *The bill would also make any person who violates any rule or regulation, emission limitation, mitigation measure, or permit condition liable for a civil penalty, as specified.*

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

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

1 SECTION 1. This act may be referred to as the
2 Pesticide Regulation Reform Act of 1996. The Legislature
3 finds and declares all of the following:
4 (a) The data and scientific evaluations required for
5 pesticide registration in California have established high
6 standards that will be maintained to ensure the
7 protection of human health and the environment.
8 (b) The joint efforts of the California Environmental
9 Protection Agency's Department of Pesticide Regulation
10 and the United States Environmental Protection Agency
11 to formalize lines of communication in order to make the
12 sharing of data reviews and other information related to
13 registration actions more structured and to eliminate
14 duplication of efforts is hereby endorsed and encouraged.
15 The Legislature supports the harmonization of
16 regulatory policies, registration data requirements and
17 forms, and risk assessment methodology between the two
18 agencies if California's high standards are not
19 compromised. By working cooperatively, the efficiency
20 and effectiveness of both agencies should be increased.
21 (c) Any efficiencies within the Department of
22 Pesticide Regulation that can be achieved in the process
23 of registering pesticides in California should result in both
24 more timely registration actions and a reemphasis on the
25 orderly program for the continuous evaluation of existing
26 pesticide registrations to ensure that no significant
27 adverse effects are likely to occur as the result of ongoing
28 uses.
29 (d) California's orderly program for the continuous
30 evaluation of existing pesticide registrations, otherwise
31 known as reevaluation, should be utilized as a consistent,
32 structured process for assessing and mitigating pesticide
33 risks. It is the intent of the Legislature that the
34 Department of Pesticide Regulation should achieve
35 equitable and timely results in those evaluations while
36 ensuring the most efficient utilization of resources, public
37 participation, and a prioritization of efforts to initiate



1 reevaluation actions that focus on the greatest potential
2 risks.

3 (e) The Legislature recognizes that it is in the best
4 interest of the efficient operation of government that
5 areas of overlapping jurisdiction be coordinated under
6 the direction of a single lead agency whenever such an
7 entity, possessing sufficient authority to so act, can be
8 designated. For the purpose of coordinating the
9 regulation of pesticides in this state, the Legislature
10 further recognizes and affirms that the Department of
11 Pesticide Regulation has been vested with the primary
12 authority to regulate pesticides in this state, and that the
13 department has acted, and should continue to act, as the
14 principal government agency for such matters. Further,
15 the Legislature declares its intent that the department
16 should enter into those memoranda of agreement with
17 state and local agencies that may be necessary to provide
18 that California's pesticide regulatory program is
19 reasonable and consistent, avoiding duplication and
20 confusion, while ensuring effective standards for
21 protecting human health and the environment.

22 SEC. 1.5. Section 11404 of the Food and Agricultural
23 Code is amended to read:

24 11404. "Pesticide" is defined in Section 12753.

25 SEC. 2. Section 11472 is added to the Food and
26 Agricultural Code, to read:

27 11472. The director shall keep a separate record of the
28 classes and sources of income that is credited to, and
29 disbursed from, the Department of Pesticide Regulation
30 Fund.

31 SEC. 3. Section 11472.1 is added to the Food and
32 Agricultural Code, to read:

33 11472.1. On or before October 31 of each year, the
34 department shall publish a financial report regarding the
35 preceding fiscal year and shall make this report available
36 to the public. This report shall describe in detail the
37 amount and source of funding of, and the costs to operate,
38 each branch of the department. The department also
39 shall include information regarding the funding of major
40 programs within those branches and other relevant

1 information that may aid in evaluating the scope and
2 impact of the activities of the department.

3 SEC. 3.5. Section 11501 of the Food and Agricultural
4 Code is amended to read:

5 11501. The purposes of this division and Chapter 1
6 (commencing with Section 12501), Chapter 2
7 (commencing with Section 12751), Chapter 3
8 (commencing with Section 14001), and Chapter 3.5
9 (commencing with Section 14101) of Division 7 are as
10 follows:

11 (a) To provide for the proper, safe, and efficient use of
12 pesticides essential for production of food and fiber and
13 for protection of the public health and safety.

14 (b) To protect the environment from
15 environmentally harmful pesticides by prohibiting,
16 regulating, or encouraging proper stewardship of those
17 pesticides.

18 (c) To assure the agricultural and pest control workers
19 of safe working conditions where pesticides are present.

20 (d) To permit agricultural pest control by competent
21 and responsible licensees and permittees under strict
22 control of the director and commissioners.

23 (e) To assure consumers and users that pesticides are
24 properly labeled and are appropriate for the use
25 designated by the label and that state or local
26 governmental dissemination of information on pesticidal
27 uses of any registered pesticide product is consistent with
28 the uses for which the product is registered.

29 (f) To encourage the development and
30 implementation of pest management systems, stressing
31 application of biological and cultural pest control
32 techniques with selective pesticides when necessary to
33 achieve acceptable levels of control with the least possible
34 harm to nontarget organisms and the environment.

35 SEC. 4. Section 12112 of the Food and Agricultural
36 Code is amended to read:

37 12112. Notwithstanding Section 11513, 50 percent of
38 the moneys derived under this chapter shall be available
39 to the director to cover the costs of establishing and
40 administering the pest control dealer's licensing program



1 pursuant to this chapter. The director shall pay 50 percent
2 of the moneys collected to the counties that employ
3 agricultural commissioners and the moneys shall be used
4 by the counties for the enforcement and administration
5 of this chapter. The department shall determine and pay
6 to each county one-half of the deposited application fees
7 and renewal fees that are received from applicants whose
8 principal address at the time of payment, as determined
9 by the director, was located in the county, and the
10 amount of the payments to counties is hereby
11 appropriated from the Department of Pesticide
12 Regulation Fund.

13 SEC. 5. The heading of Article 1.5 (commencing with
14 Section 12115) of Chapter 7 of Division 6 of the Food and
15 Agricultural Code is repealed.

16 SEC. 6. Section 12115 of the Food and Agricultural
17 Code is amended to read:

18 ~~12115. (a) Each pest control dealer shall pay to the~~
19 ~~director an assessment of 9 mills (\$0.009) per dollar of the~~
20 ~~dealer's acquisition price or the registrant's sales price,~~
21 ~~whichever is higher, for all sales by the dealer into or~~
22 ~~within this state of economic poisons registered by the~~
23 ~~director where the dealer is the person who first sold the~~
24 ~~economic poison into or within this state.~~

25 ~~(b) Until June 30, 1997, each pest control dealer shall~~
26 ~~pay an additional assessment of 12 mills (\$0.012) per~~
27 ~~dollar of the dealer's acquisition price or the registrant's~~
28 ~~sales price, whichever is higher, for all sales by the dealer~~
29 ~~into or within this state of economic poisons registered by~~
30 ~~the director where the dealer is the person who first sold~~
31 ~~the economic poison into or within this state. Beginning~~
32 ~~July 1, 1997, and until June 30, 2001, each pest control~~
33 ~~dealer shall pay an additional assessment of 5³/₄ mills~~
34 ~~(\$0.00575) per dollar of the dealer's acquisition price or~~
35 ~~the registrant's sales price, whichever is higher, for all~~
36 ~~sales by the dealer into or within this state of economic~~
37 ~~poisons registered by the director where the dealer is the~~
38 ~~person who first sold the economic poison into or within~~
39 ~~this state. Code is repealed.~~



1 SEC. 7. Section 12115.1 of the Food and Agricultural
2 Code is repealed.

3 SEC. 8. Section 12115.2 of the Food and Agricultural
4 Code is repealed.

5 SEC. 9. Section 12115.3 of the Food and Agricultural
6 Code is amended and renumbered to read:

7 12114. (a) Each licensed pest control dealer, or
8 person who is required to be licensed as a pest control
9 dealer pursuant to Section 12101, shall maintain at its
10 principal place of business the records of its purchases,
11 sales, and distributions of pesticides into or within this
12 state, including those of its branch locations, for four
13 years. Each dealer shall also maintain the pesticide broker
14 license number of any pesticide broker from whom the
15 dealer purchased pesticides. The records shall be
16 available for audit by the director or county agricultural
17 commissioner.

18 (b) Each licensed pest control dealer, or person who
19 is required to be licensed as a pest control dealer pursuant
20 to Section 12101, shall report quarterly to the director the
21 dealer's acquisition price, the registrant's sale price, the
22 total dollars of sales, and total pounds or gallons sold into
23 or within this state of pesticides labeled for agricultural
24 use for all sales subject to Section 12841. The quarterly
25 report shall be in the form prescribed by the director and
26 shall include all information from the dealer's licensed
27 branch locations, if any, and any other information
28 specified on the form or required by the director. The
29 report shall include a certification, under penalty of
30 perjury, that the information contained in the report is
31 true and correct. The report shall accompany payment of
32 assessments required by Section 12841.1.

33 SEC. 10. Section 12115.4 of the Food and Agricultural
34 Code is repealed.

35 SEC. 11. Section 12115.5 of the Food and Agricultural
36 Code is amended and renumbered to read:

37 12115. Any licensed pest control dealer, or person
38 who is required to be licensed as a pest control dealer
39 pursuant to Section 12101, who purchases pesticide
40 products that are registered by the director pursuant to



1 Chapter 2 (commencing with Section 12751) of Division
2 7 from a person other than a registrant or a licensed pest
3 control dealer, shall report in writing the name, address,
4 telephone number, and pesticide broker license number
5 issued by the director, if any, of those persons to the
6 director annually, by December 1 each year.

7 SEC. 12. Section 12115.6 of the Food and Agricultural
8 Code is amended and renumbered to read:

9 12116. It is unlawful for a licensed pest control dealer,
10 or person who is required to be licensed as a pest control
11 dealer pursuant to Section 12101, to purchase for sale in
12 this state a pesticide that is labeled for agricultural use
13 except from a registrant, a pest control dealer licensed
14 pursuant to Section 12107, or a pesticide broker licensed
15 pursuant to Section 12402.

16 SEC. 13. Chapter 10 (commencing with Section
17 12400) is added to Division 6 of the Food and Agricultural
18 Code, to read:

19

20 CHAPTER 10. PESTICIDE BROKERS

21

22 12400. It is unlawful for any person, other than the
23 registrant or pest control dealer licensed pursuant to
24 Section 12107, to sell or distribute into or within this state
25 any economic poison products that have been registered
26 by the director and that are labeled for agricultural use,
27 unless the person is licensed by the director as a pesticide
28 broker. This chapter does not apply to persons who
29 operate as sellers or distributors of economic poisons that
30 are labeled only for nonagricultural uses.

31 12401. (a) An application for a pesticide broker
32 license, or renewal of a license, shall be in the form
33 prescribed by the director. Each application for a license,
34 or license renewal, shall state the name and address of the
35 applicant, and any other information specified on the
36 application or required by the director, and be
37 accompanied by a fee of one hundred dollars (\$100).

38 (b) An additional license fee, or license renewal fee, of
39 fifty dollars (\$50) shall be paid for each branch location
40 of the applicant that sells or distributes into or within the



1 state any economic poison products that are labeled for
2 agricultural use.

3 12402. The director shall issue to each applicant that
4 satisfies the requirements of this chapter a pesticide
5 broker license that shall be valid for one year from the
6 date of issuance, unless the license is revoked or
7 suspended in the interim.

8 12403. All licenses issued pursuant to this chapter may
9 be renewed annually upon application to the director.

10 12404. A penalty of twenty-five dollars (\$25) shall be
11 added to any license renewal fee that is not paid by the
12 date of expiration of a previously issued license or license
13 renewal.

14 12405. Each licensed pesticide broker that changes
15 the address of its place of business, or that of a branch
16 location, shall immediately provide the director written
17 notification of the change.

18 12406. (a) Each licensed pesticide broker, or person
19 who is required to be licensed as a pesticide broker
20 pursuant to Section 12400, shall maintain at its principal
21 place of business the records of its purchases and sales and
22 distributions of economic poisons into or within this state,
23 including those of its branch locations, for four years. The
24 records shall be available for audit by the director or
25 county agricultural commissioner.

26 (b) Each licensed pesticide broker, or person who is
27 required to be licensed as a pesticide broker pursuant to
28 Section 12400, shall report quarterly to the director the
29 total dollars of sales and total pounds or gallons sold into
30 or within this state of each pesticide labeled for
31 agricultural use, for all sales subject to Section 12841. The
32 quarterly report shall be in the form prescribed by the
33 director and shall include information from the broker's
34 licensed branch locations, if any, and any other
35 information specified on the form or required by the
36 director. The report shall include a certification, under
37 penalty of perjury, that the information contained in the
38 report is true and correct. The report shall accompany
39 payment of assessments required by Section 12841.1.



1 12407. It is unlawful for any person required to be
2 licensed as a pesticide broker pursuant to this chapter to
3 make any false or fraudulent statements or misrepresent
4 or fail to disclose any material fact in making application
5 for a license or renewal of a license or in any reports
6 submitted to the director, or to make any false or
7 misleading statements concerning any products specified
8 in Section 12847 that the person sells or distributes.

9 12408. The director, after a hearing, may refuse,
10 revoke, or suspend a pesticide broker license for any
11 violation of this division or Division 7 (commencing with
12 Section 12500) or any regulations adopted pursuant to
13 this division.

14 SEC. 14. Section 12753 of the Food and Agricultural
15 Code is amended to read:

16 12753. "Pesticide" includes any of the following:

17 (a) Any spray adjuvant.

18 (b) Any substance, or mixture of substances which is
19 intended to be used for defoliating plants, regulating
20 plant growth, or for preventing, destroying, repelling, or
21 mitigating any pest, as defined in Section 12754.5, which
22 may infest or be detrimental to vegetation, man, animals,
23 or households, or be present in any agricultural or
24 nonagricultural environment whatsoever.

25 SEC. 15. Section 12753.5 is added to the Food and
26 Agricultural Code, to read:

27 12753.5. Whenever the term "economic poison" is
28 used in this code, it means pesticide.

29 SEC. 15.1. Section 12815 of the Food and Agricultural
30 Code is amended to read:

31 12815. (a) If a manufacturer, importer, or dealer in
32 pesticides who applies for registration of pesticides has
33 complied with this chapter and the regulations that are
34 adopted pursuant to it, the director shall register each
35 pesticide that is sought to be registered and issue a
36 certificate of registration to the applicant in a timely
37 manner that authorizes the manufacture and sale of the
38 pesticide in this state.

39 (b) An application for registration of a pesticide or an
40 amendment to *the registration of* a currently registered



1 pesticide shall be reviewed, and a decision approving or
2 disapproving the application issued, within 150 days for
3 pesticides containing any active ingredient not currently
4 registered by the director or for any new major use of a
5 pesticide, or within 90 days for all other actions. These
6 processing periods shall include any required public
7 notice periods. *periods shall include any public notice*
8 *periods required by the California Environmental*
9 *Quality Act (Division 13 (commencing with Section*
10 *21000) of the Public Resources Code).*

11 (c) The processing time established in subdivision (b)
12 shall begin on the date the department determines that
13 the necessary application materials have been submitted
14 to support the proposed registration action, or when no
15 data evaluation is required, on the date of receipt of the
16 application by the department.

17 SEC. 15.2. Section 12815.5 is added to the Food and
18 Agricultural Code, to read:

19 12815.5. (a) The director shall publish an annual
20 report summarizing the results to date of the
21 department's efforts to identify unnecessary duplication
22 between the federal and state pesticide registration
23 processes and all actions taken pursuant to ~~this section~~
24 ~~and Section 12824. This Sections 12815 and 12824. The~~
25 report shall include the total number of applications
26 submitted for registration and amendment *of*
27 *registration*, an identification of any applications that
28 exceeded the processing periods established in
29 subdivision (b) *of Section 12815*, the director's
30 determination of the factors contributing to each case
31 that exceeded those processing periods, and any program
32 changes either made, or that need to be made, to address
33 those factors.

34 (b) This section shall remain in effect only until
35 January 1, 2001, and as of that date is repealed, unless a
36 later enacted statute, which is enacted before January 1,
37 2001, deletes or extends that date.

38 SEC. 15.3. Section 12824 of the Food and Agricultural
39 Code is repealed.



1 SEC. 15.4. Section 12824 is added to the Food and
2 Agricultural Code, to read:

3 12824. (a) The director shall endeavor to prohibit the
4 use in the state of any pesticide that endangers public
5 health, worker safety and health, or the environment, is
6 not beneficial for the purposes for which it is sold, or is
7 misrepresented. In carrying out this responsibility, the
8 director shall thoroughly evaluate a substance before it is
9 registered as a pesticide for the first time and shall
10 develop an orderly program for the continuous
11 evaluation of all pesticides actually registered.

12 ~~(b) In carrying out the evaluations under this chapter,~~
13 *(b) In carrying out an evaluation pursuant to*
14 *subdivision (a), the director shall do all of the following:*

15 (1) Ensure that the applicant for registration has
16 submitted all studies that are required by this chapter and
17 the regulations adopted pursuant to this chapter before
18 the substance may be registered.

19 (2) Determine that the studies meet the requirements
20 of this chapter.

21 (3) Conduct evaluations, including risk assessments as
22 appropriate, that integrate the findings of the required
23 studies, evaluate their conclusions, and provide
24 appropriate appraisals of the pesticide for the purposes of
25 this chapter, and Chapter 3 (commencing with Section
26 14001) and Chapter 3.5 (commencing with Section
27 14101), including an appraisal of the hazards that the use
28 of the registered pesticide may pose to public health,
29 worker safety and health, or the environment.

30 ~~(e) In determining if a study submitted in support of~~
31 *(c) (1) In determining, pursuant to paragraph (2) of*
32 *subdivision (b), if a study submitted in support of*
33 *registration meets the requirements of this chapter*
34 ~~*pursuant to subdivision (b), the department may accept*~~
35 *an evaluation of the study prepared by the United States*
36 *Environmental Protection Agency in lieu of its own*
37 *evaluation, if the department does all of the following:*

38 ~~(1)~~
39 (A) Determines that the United States Environmental
40 Protection Agency has evaluated the study and accepted



1 it as adequate for federal registration, and that the study
 2 and all relevant federal evaluation documents regarding
 3 the study have been submitted to the department.

4 ~~(2)~~

5 (B) Determines that the federal standards, protocols,
 6 and guidelines for carrying out and evaluating the study
 7 are substantially the same as ~~those~~—*the* standards,
 8 protocols, and guidelines used by the department ~~to the~~
 9 ~~extent that these~~—*and that the study* will produce data or
 10 other information that complies with the requirements of
 11 this chapter.

12 ~~(3)~~

13 (C) Finds that the federal evaluation documents
 14 provide sufficient information to enable the department
 15 to determine that the federal evaluator of the study used
 16 methods, procedures, and criteria to assess the validity,
 17 reliability, and acceptability of the study that are
 18 equivalent to those used by the department.

19 ~~(4)~~

20 (D) Finds that the federal evaluation documents
 21 exhibit or summarize the data or other information
 22 produced by the study and ~~presents~~ *present* the
 23 conclusions of the study in sufficient detail to enable the
 24 department to conduct the evaluations, including risk
 25 assessments as appropriate, required by *paragraph (3) of*
 26 *subdivision (b)*.

27 ~~(5)~~

28 (E) Includes in the notice of proposed decision
 29 required by Section 6253 of Title 3 of the California Code
 30 of Regulations a statement that the federal evaluation of
 31 the study has been accepted in lieu of a departmental
 32 evaluation.

33 *(2) The authority specified in paragraph (1) to accept*
 34 *an evaluation of a study prepared by the United States*
 35 *Environmental Protection Agency in lieu of the*
 36 *department’s own evaluation does not apply to any of the*
 37 *following:*

38 (A) *Mandatory health effects studies required for*
 39 *registration pursuant to Article 14 (commencing with*
 40 *Section 13121).*



1 (B) *Data and studies required by the director*
2 *pursuant to Section 12987. Those data and studies,*
3 *include, but are not limited to, dermal and inhalation*
4 *exposure data required by Section 6177 of Title 3 of the*
5 *California Code of Regulations, and foliar and soil residue*
6 *data required by Section 6181 of Title 3 of the California*
7 *Code of Regulations.*

8 (d) For pesticides that are not defined or regulated as
9 pesticides by the United States Environmental
10 Protection Agency under the federal Insecticide,
11 Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136 et
12 seq.), data shall be submitted upon the request of the
13 director when specific data on that pesticide are
14 necessary for the purpose of this chapter and the
15 regulations adopted pursuant to this chapter.

16 (e) The director shall adopt regulations describing the
17 reevaluation process required by this section that shall, at
18 a minimum, establish criteria for initiating a reevaluation
19 of a registered pesticide, procedures for identifying
20 specific timeframes within which specific actions in a
21 reevaluation process should be completed, procedures
22 for preventing the unauthorized use of proprietary data,
23 and procedures providing for public participation in both
24 the characterization and mitigation of any significant
25 adverse effects. The director may establish specific
26 criteria for the reevaluation of a pesticide with regard to
27 the factors listed in Section 12825, and may require
28 registrants of pesticides under reevaluation to conduct
29 studies or tests that are relevant to the focus of the
30 reevaluation.

31 (f) Appropriate restrictions may be placed upon a
32 pesticide's use, including, but not limited to, limitations
33 on quantity, area, and manner of application.

34 (g) The director may establish specific criteria to
35 evaluate a pesticide with regard to the factors listed in
36 Section 12825. The department may establish
37 performance standards, and tests that are to be
38 conducted or financed, or both, by the registrants,
39 applicants for registration, or parties interested in the
40 registration of those pesticides.



1 SEC. 15.5. Section 12825 of the Food and Agricultural
2 Code is amended to read:

3 12825. Pursuant to Section 12824, the director may,
4 after hearing, cancel the registration of, or refuse to
5 register, any pesticide:

6 (a) That has demonstrated serious uncontrollable
7 adverse effects either within or outside the agricultural
8 environment.

9 (b) The use of which is of less public value or greater
10 detriment to the environment than the benefit received
11 by its use.

12 (c) For which there is a reasonable effective and
13 practicable alternate material or procedure that is
14 demonstrably less destructive to the environment.

15 (d) That, when properly used, is detrimental to
16 vegetation, except weeds, to domestic animals, or to the
17 public health and safety.

18 (e) That is of little or no value for the purpose for
19 which it is intended.

20 (f) Concerning which any false or misleading
21 statement is made or implied by the registrant or his or
22 her agent, either verbally or in writing, or in the form of
23 any advertising literature.

24 (g) For which the director determines the registrant
25 has failed to report an adverse effect or risk as required
26 by Section 12825.5.

27 (h) If the director determines that the registrant has
28 failed to comply with the requirements of a reevaluation
29 or to submit the data required as part of the reevaluation
30 of the registrant's product.

31 (i) That is required to be registered pursuant to the
32 Federal Insecticide, Fungicide, and Rodenticide Act (7
33 U.S.C. 136 et seq.) and that is not so registered.

34 In making a determination pursuant to this section, the
35 director may require those practical demonstrations as
36 are necessary to determine the facts.

37 SEC. 16. Section 12841 of the Food and Agricultural
38 Code is amended to read:

39 12841. (a) It is unlawful for any person to sell for use
40 in this state any pesticide products that have been



1 registered by the director for which the mill assessment
2 established by this article, and the regulations adopted
3 pursuant to it, is not ultimately paid within the
4 timeframes specified in Section 12843.

5 (b) Except as provided in subdivision (d), every
6 person who sells for use in this state a pesticide product
7 that has been registered by the director shall pay to the
8 director the applicable assessment specified in Section
9 12841.1, there is a rebuttable presumption that pesticide
10 products that are sold or distributed into or within this
11 state by any person are sold or distributed for use in this
12 state.

13 (c) (1) Upon application of any registrant, the
14 director shall determine whether a fertilizer or paper
15 product is used as a carrier for a pesticide, and is sold in
16 combination, and whether the mill assessment under this
17 article shall be on the pesticide value only, when the
18 product is designed, developed, manufactured, and sold
19 primarily for other than a pesticide use. If the director
20 finds that the combination product has such a major
21 component and is designed, developed, manufactured,
22 and sold primarily for other than a pesticide use, the
23 assessment provided by this article shall be paid on the
24 equivalent percentage of the sales price of the active
25 ingredients of the pesticide product. The director shall
26 establish this percentage of the sales price. The
27 percentage shall be the ratio of that portion of the sales
28 price attributable to the pesticide portion to the total sales
29 price of the combination product.

30 (2) For purposes of this section, “active ingredient”
31 means any active ingredient that is required to be stated
32 on the label on any registered pesticide under Section
33 12883.

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

37 (1) In those cases where the registrant did not first sell
38 the pesticide into or within this state or have actual
39 knowledge, at the time of its sale, that the pesticide would
40 be sold for use in this state, the assessment shall be paid



1 by the licensed pesticide broker, licensed pest control
2 dealer, or other person who first sold the pesticide for use
3 in this state.

4 (2) No person is required to pay an assessment on
5 registered products that are labeled only for use in
6 further manufacturing or formulating of pesticides.

7 (e) It has been, and continues to be, the intent of the
8 Legislature that this division requires the department to
9 register all pesticides prior to their sale for use in this state
10 and, except as otherwise provided by law, requires the
11 department to regulate and control the use of pesticides
12 in accordance with this division. Except as provided in
13 Section 12841.1, the department shall continue to collect
14 the assessment as provided in this article at the same rate
15 on all registered agricultural and registered
16 nonagricultural pesticides.

17 SEC. 17. Section 12841.1 of the Food and Agricultural
18 Code is repealed.

19 SEC. 18. Section 12841.1 is added to the Food and
20 Agricultural Code, to read:

21 12841.1. (a) The mill assessment on all sales for use in
22 this state of pesticide products registered by the director
23 shall not exceed the rates established in this section.
24 However, the director may reduce the assessment if he
25 or she determines that a lesser assessment rate, together
26 with other available funds, will provide adequate
27 revenue to administer and enforce Division 6
28 (commencing with Section 11401), this chapter, Chapter
29 3 (commencing with Section 14001), and Chapter 3.5
30 (commencing with Section 14101).

31 (1) *Until June 30, 1997, the assessment applicable to all*
32 *sales of pesticide products registered by the director shall*
33 *be 22 mills (\$0.022) per dollar of sales for all sales for use*
34 *in this state.*

35 (2) From July 1, 1997, to June 30, 2001, inclusive, the
36 assessment applicable to all sales of pesticide products
37 registered by the director shall be 14.75 mills (\$.014575)
38 per dollar of sales for all sales for use in this state, and an
39 additional one mill (\$.001) per dollar of sales for all sales
40 for use in this state except for sales for use in this state of



1 those nonagricultural pesticides labeled only for home,
2 industrial, or institutional use.

3 ~~(2)~~

4 (3) Commencing July 1, 2001, and until a different rate
5 is established by the Legislature, the assessment
6 applicable to all sales of pesticide products registered by
7 the director shall be nine mills (\$0.009) per dollar of sales
8 for all sales for use in this state.

9 (b) The revenue collected from the mill assessment
10 shall be deposited in the Department of Pesticide
11 Regulation Fund, except as specified in paragraph (1),
12 and distributed as follows:

13 (1) Sixty-seven and one-half percent of the revenue
14 received from one mill (\$0.001) of the assessment
15 specified in paragraph (1) of subdivision (a) and,
16 commencing July 1, 1997, 67.5 percent of the revenue
17 received from the one additional mill (\$0.001) specified
18 in ~~paragraphs~~ ~~(1)~~ *paragraph* (2) of subdivision (a) shall
19 be deposited monthly in a separate account in the
20 Department of Food and Agriculture Fund. These
21 revenues shall be expended only by the Department of
22 Food and Agriculture, upon appropriation, to provide
23 consultation to the department pursuant to Section
24 11454.2. No funds may be expended prior to the execution
25 of a memorandum of understanding pursuant to
26 subdivision (b) of Section 11454.2. The consultation
27 activities to be undertaken by the Department of Food
28 and Agriculture are limited solely to those specifically
29 authorized in the memorandum of understanding
30 executed pursuant to Section 11454.2. In no case shall
31 these funds be expended for scientific risk assessment
32 activities.

33 (2) Thirty-two and one-half percent of the revenue
34 received from one mill (\$0.001) of the assessment
35 specified in paragraph (1) of subdivision (a) and,
36 commencing July 1, 1997, 32.5 percent of the revenue
37 received from the one additional mill (\$0.001) specified
38 in ~~paragraphs~~ ~~(1)~~ *paragraph* (2) of subdivision (a) shall
39 be paid to the counties in a manner prescribed by the



1 director as partial reimbursement for costs incurred by
 2 the counties in the administration of Section 12979.

3 (3) Notwithstanding Section 12784 and exclusive of
 4 the distributions made pursuant to paragraphs (1) and
 5 (2), the director shall pay 26.79 percent of the revenue
 6 received pursuant to paragraph (1) of subdivision (a),
 7 *38.14 percent of the revenue received pursuant to*
 8 *paragraph (2) of subdivision (a)*, and 62.5 percent of the
 9 revenue received pursuant to paragraph ~~(2)~~ (3) of
 10 subdivision (a), to the counties as reimbursement for
 11 costs incurred by the counties in the administration and
 12 enforcement of Division 6 (commencing with Section
 13 11401), this chapter, Chapter 3 (commencing with
 14 Section 14001), and Chapter 3.5 (commencing with
 15 Section 14101).

16 (4) All funds not otherwise distributed pursuant to this
 17 subdivision shall remain in the Department of Pesticide
 18 Regulation Fund and shall be available for expenditure,
 19 upon appropriation, to support the department's
 20 operations.

21 SEC. 19. Section 12842 of the Food and Agricultural
 22 Code is amended to read:

23 12842. Every person who sells for use in this state any
 24 pesticide products that have been registered by the
 25 director shall maintain in this state, or with the director's
 26 permission at another location, an accurate record of all
 27 transactions subject to assessment. Such records shall be
 28 subject to audit by the director and shall clearly
 29 demonstrate proof of payment of all applicable
 30 assessments for each registered pesticide product sold for
 31 use in this state.

32 SEC. 20. Section 12843 of the Food and Agricultural
 33 Code is amended to read:

34 12843. The payments required by this article,
 35 together with a return in a form prescribed by the
 36 director, shall be made quarterly one calendar month
 37 after March 31, June 30, September 30, and December 31
 38 of each year. For any delinquency in making a return, or
 39 any deficiency in payment, the director may add to such
 40 delinquent payment a penalty of 10 percent of the



1 amount that is due to defray the cost of collection of the
2 delinquent or deficient payment.

3 SEC. 21. Section 12844 of the Food and Agricultural
4 Code is amended to read:

5 12844. The director and the county agricultural
6 commissioners shall jointly develop regulations
7 specifying the criteria to be used in allocating pesticide
8 mill assessment funds to the counties based upon each
9 county's pest control activities, costs, workload, and
10 performance. After providing public notice, the director
11 shall adopt those regulations. The criteria to be used in
12 allocating the funds to counties shall include, but not be
13 limited to, all of the following:

14 (a) The effectiveness of the pesticide use enforcement
15 program in each county.

16 (b) The number, comprehensiveness, and
17 effectiveness of pest control inspections performed in
18 each county.

19 (c) The number of licensed pest control advisers, pest
20 control dealers, pest control businesses, and agricultural
21 pest control pilots operating in each county.

22 (d) The work hours expended by licensed pesticide
23 use enforcement personnel in each county.

24 (e) The total amount of dollars expended by each
25 county relating to pesticide regulatory activities.

26 (f) The number of private applicators certified in each
27 county.

28 (g) The volume of pesticides used in each county.

29 SEC. 22. Section 12845 of the Food and Agricultural
30 Code is amended to read:

31 12845. (a) The director may adopt regulations that
32 require persons subject to this article to provide
33 information determined by the director to be necessary
34 to enable the director to perform the audit authorized
35 pursuant to Section 12842 and to carry out other powers
36 or duties under this division.

37 (b) The regulations adopted pursuant to this section
38 may include, but are not limited to, a requirement that a
39 person subject to this article provide the director with
40 information on the quarterly dollar sales of each



1 registered pesticide sold for use in this state and the
2 quarterly volume of each registered pesticide sold for use
3 in this state.

4 SEC. 23. Section 12846 of the Food and Agricultural
5 Code is amended to read:

6 12846. The Food Safety Account is hereby created in
7 the Department of Pesticide Regulation Fund to be used,
8 upon appropriation, for purposes of Sections 12535, 12797,
9 12798, 12979, 13134, and 13135 of this code and Section
10 110495 of the Health and Safety Code.

11 SEC. 24. Section 12847 of the Food and Agricultural
12 Code is amended to read:

13 12847. Sales invoices for pesticides first sold into or
14 within this state by a registrant, pesticide broker, pest
15 control dealer, or other person subject to this article shall
16 show that the assessment specified in Section 12841.1 will
17 be paid by the registrant, broker, dealer, or person,
18 respectively. All other sales invoices for pesticides sold
19 into or within this state, except retail sale of those
20 nonagricultural pesticides labeled only for home,
21 industrial, or institutional use shall show that the
22 assessment will be paid, and may show an amount or rate
23 that represents the assessment. However, only the person
24 who actually will pay the assessment may show the
25 amount or rate of the assessment as a line item on the sales
26 invoice.

27 SEC. 25. Article 4.6 (commencing with Section
28 12848) of Chapter 2 of Division 7 of the Food and
29 Agricultural Code is repealed.

30 SEC. 26. Section 12931 of the Food and Agricultural
31 Code is amended to read:

32 12931. The director may take samples of pesticides,
33 make analyses or examinations of them, and make such
34 investigations as are necessary for the full enforcement of
35 this chapter.

36 SEC. 27. Section 12932 of the Food and Agricultural
37 Code is repealed.

38 SEC. 28. Article 1.5 (commencing with Section
39 14021) of Chapter 3 of Division 7 of the Food and
40 Agricultural Code is repealed.



1 SEC. 29. Article 1.5 (commencing with Section
2 14021) is added to Chapter 3 of Division 7 of the Food and
3 Agricultural Code, to read:

4
5 Article 1.5. Pesticides In the Air
6

7 14021. (a) The purpose of this article is to direct the
8 Department of Pesticide Regulation to investigate the
9 presence of pesticides in ambient air to evaluate those
10 pesticides for their potential to cause significant risk to
11 human health, and to ensure that effective mitigation
12 measures are developed and implemented when the
13 department determines that a pesticide poses a
14 significant risk to human health.

15 ~~(b) For purposes of this article, ‘pesticide’ is defined in~~
16 ~~Section 12753.~~

17 (b) For purposes of this article:

18 (1) “Pesticide” is defined in Section 12753.

19 (2) A pesticide that causes or poses a significant risk to
20 human health is a pesticide that the department finds
21 may cause or contribute to an increase in mortality or an
22 increase in serious illness, or that may pose a present or
23 potential hazard to human health.

24 14022. (a) In consultation with the State
25 Department of Health Services, the Office of
26 Environmental Health Hazard Assessment, and the State
27 Air Resources Board, the director shall evaluate the
28 health effects of pesticides, including pesticides that have
29 been identified as hazardous air pollutants pursuant to
30 Section 7412 of Title 42 of the United States Code, that are
31 or may be emitted into the ambient air of California to
32 determine if they pose a significant risk to human health.
33 If requested by the State Air Resources Board, the Office
34 of Environmental Health Hazard Assessment, or the
35 scientific review panel established under Section 39670 of
36 the Health and Safety Code, the director shall evaluate a
37 pesticide.

38 ~~(b) The director shall give priority to the evaluation of~~
39 ~~pesticides pursuant to this article based on factors related~~
40 ~~to the~~

1 (b) In implementing this article, the director shall
2 initiate evaluations of at least three pesticides each year.
3 The pesticides shall be selected from a list of candidates
4 identified by the director in a published report based on
5 the following priority factors: risk of harm to public
6 health, the amount or potential amount of emissions, the
7 manner of usage of the pesticide in California, persistence
8 in the atmosphere, and concentrations in the ambient air
9 in the community.

10 (c) In conducting ~~this~~ an evaluation, the director shall
11 consider all available scientific data, including, but not
12 limited to, relevant data provided by the State
13 Department of Health Services, the Office of
14 Environmental Health Hazard Assessment, the
15 Occupational Safety and Health Division of the
16 Department of Industrial Relations, international and
17 federal health agencies, private industry, academic
18 researchers, and public health and environmental
19 organizations. If requested by the director, the State Air
20 Resources Board shall monitor for and document the
21 concentrations of pesticides in ambient air, following
22 monitoring protocols established by the department, in
23 consultation with the State Air Resources Board. The
24 State Air Resources Board and the Office of
25 Environmental Health Hazard Assessment shall provide
26 technical assistance to the department as it conducts its
27 evaluation.

28 (d) The director, with reasonable cause, may request,
29 and any person shall provide, information on any
30 pesticide that is or may be under evaluation and that is
31 manufactured, distributed, or used by the person to
32 whom the request is made, in order to carry out his or her
33 responsibilities pursuant to this chapter. Any person
34 providing information pursuant to this subdivision, at the
35 request of the director, shall identify that portion of the
36 information submitted to the department that is a trade
37 secret and, upon the request of the director, shall provide
38 documentation to support the claim of the trade secret.
39 Information supplied that is a trade secret, as specified in
40 Section 6254.7 of the Government Code, and that is so



1 marked at the time of submission, shall not be released to
2 the public by the director, except in accordance with
3 Section 1060 of the Evidence Code and Section 21160 of
4 the Public Resources Code.

5 ~~(e) Upon completion of the data development and
6 review phase of the evaluation, the director shall prepare~~

7 *(e) Within one year from the date the director*
8 *receives air monitoring data on a pesticide from the State*
9 *Air Resources Board, the director shall prepare and*
10 *complete a report on the health effects of the pesticide.*
11 *The report shall contain information on the types of*
12 *exposure to the pesticide that may pose a significant risk*
13 *to human health as a result of concentrations of the*
14 *pesticide in the ambient air, the levels of exposure that*
15 *may pose a significant risk to human health, the patterns*
16 *of use and the types of uses that might cause significant*
17 *exposure to concentrations of the pesticide in ambient*
18 *air, and a finding whether current or potential uses of the*
19 *pesticide may pose significant risks to human health.* The
20 report shall be made available for review and comment
21 to relevant state agencies, the scientific review panel
22 established pursuant to Section 39670 of the Health and
23 Safety Code, and, subject to subdivision (d), to the public.

24 (f) The scientific review panel established pursuant to
25 Section 39670 of the Health and Safety Code shall formally
26 review the report prepared pursuant to subdivision (a)
27 and, as appropriate, the scientific data on which it is
28 based, the methods used to analyze the data, and the
29 assessments and conclusions that result from the analysis.
30 If the panel determines the report is scientifically
31 deficient, it shall return it to the director with its written
32 findings and the director shall revise the report
33 accordingly or, in writing, state the reasons for rejecting
34 the findings.

35 (g) Following review of the report by the scientific
36 review panel and the department's response to the
37 panel's written findings, the department shall, if
38 requested, conduct a public workshop on the report.

39 14023. Upon completion of the evaluation process, the
40 ~~director shall determine the need for mitigation~~



1 ~~measures for any pesticide determined to pose a~~
2 ~~significant risk to human health.~~

3 ~~14024. (a) In any case in which the director~~
4 ~~determines that mitigation measures are needed, the~~
5 ~~director shall issue a final report that identifies the~~
6 ~~current or potential uses of the evaluated pesticide that~~
7 ~~may pose a significant risk to human health as a result of~~
8 ~~concentrations of the pesticide in the ambient air and~~
9 ~~shall ensure that mitigation measures are adopted and~~
10 ~~implemented pursuant to Section 14024 for all uses that~~
11 ~~result in a significant risk.~~

12 14024. The director shall ensure that ~~they~~ mitigation
13 measures are designed and implemented so that the
14 continued use of the pesticide does not cause a significant
15 risk to human health. Mitigation may be accomplished by
16 any of the following:

17 (1) Voluntary mitigation measures adopted by the
18 pesticide registrant or registrants, or pesticide applicators
19 or users.

20 (2) Mitigation measures imposed by the department
21 after consultation with the county agricultural
22 commissioners and affected air pollution control districts
23 and air quality management districts. Mitigation
24 measures may include, but are not limited to, the
25 following:

- 26 (A) Label amendments.
- 27 (B) Applicator training.
- 28 (C) Restrictions on use patterns or locations.
- 29 (D) Changes in application procedures.
- 30 (E) Reclassification as a restricted material.
- 31 (F) Cancellation.

32 (b) The director shall take all necessary action,
33 including air monitoring by the department in
34 consultation with the State Air Resources Board or by the
35 registrant or registrants under the supervision of the
36 department, to validate the effectiveness of mitigation
37 measures and to demonstrate that the continued use of
38 the pesticide does not cause a significant risk to human
39 health.



1 (c) If the director determines that mitigation
2 measures implemented pursuant to subdivision (a) are
3 not effective and that the continued use of the pesticide
4 poses a significant risk to human health, the director shall
5 initiate a formal reevaluation of the pesticide and, if
6 necessary, suspend or cancel its registration.

7 14025. Any person may petition the department to
8 review a determination made pursuant to this article. The
9 petition shall specify the additional scientific evidence
10 regarding the health effects of a pesticide that was not
11 available at the time the original determination was made
12 and any other evidence that would justify a revised
13 determination.

14 *14026. (a) Notwithstanding Section 12998, any*
15 *person who violates any rule or regulation, emission*
16 *limitation, mitigation measure, or permit condition*
17 *adopted pursuant to this article is liable for a civil penalty*
18 *not to exceed ten thousand dollars (\$10,000) for each day*
19 *in which the violation occurs. In assessing a civil penalty*
20 *under this article, the court shall consider the*
21 *appropriateness of the penalty with respect to the*
22 *following factors:*

23 *(1) The size of the business of the person being*
24 *charged.*

25 *(2) The gravity of the violation.*

26 *(3) The good faith of the person being charged.*

27 *(4) The history of previous violations.*

28 *Any money recovered under this section shall be paid*
29 *into the Department of Pesticide Regulation Fund for use*
30 *by the department in administering this division and*
31 *Division 6 (commencing with Section 11401).*

32 *(b) Liability may be imposed under subdivision (a)*
33 *only if the department establishes that the violation was*
34 *caused by an act that was the result of intentional or*
35 *negligent conduct by the person accused of the violation.*

1	_____
2	CORRECTIONS
3	Text — Pages 11, 18, 22, 25, 26.
4	_____
5	

