

Assembly Bill No. 1251

CHAPTER 447

An act to amend Sections 9562 and 10721 of, to amend and renumber Sections 10782 and 10783 of, and to add Sections 10704, 10782, 10783, and 10784 to, the Food and Agricultural Code, relating to agriculture.

[Approved by Governor September 21, 1999. Filed with Secretary of State September 21, 1999.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1251, Committee on Agriculture. Animal diseases.

(1) Existing law requires the Secretary of Food and Agriculture, whenever he or she discovers any case of contagious or infectious disease that affects any animals in the state, to quarantine the diseased animals and, when necessary, other animals upon the same land or premises.

This bill, instead, would require the State Veterinarian, subject to the state administrative adjudication provisions of the Government Code, to impose a quarantine upon a population of domestic animals or food products from animals, as specified.

(2) Existing law makes it unlawful for any person to import any swine into the state, except for immediate slaughter, unless the person procures a health certificate prior to shipment or movement of the swine. Existing law, by regulation, requires an import permit for the importation of swine, as prescribed. Existing law authorizes the Secretary of Food and Agriculture to adopt regulations to control or eradicate prescribed swine diseases by taking specified action and makes any person that willfully and knowingly violates those regulations guilty of a misdemeanor.

This bill would instead make it unlawful for any person to import any swine into this state except for immediate slaughter unless the person procures a health certificate and an import permit from the Department of Food and Agriculture prior to the shipment or movement of the swine. The bill also would make it unlawful for any person to import any swine into this state for immediate slaughter unless the person procures an import permit from the department prior to the shipment or movement of the swine. Because, under existing law, a violation of these provisions would be a crime, the bill would impose a state-mandated local program. The bill would require any person requesting an import permit to identify the premises, as defined, of the swine prior to the shipment of the swine into the state.

The bill would authorize the department to impose an administrative penalty not to exceed \$100 per individual animal for each violation of specified regulations relating to the control of prescribed swine diseases. In addition, the bill would provide that a willful and knowing violation of these regulations is a crime, punishable as an infraction by a fine of not more than \$100 per animal for each violation, a misdemeanor, or a felony. The bill would authorize the department, after notice and hearing, to revoke a prescribed license granted by the department to a person conducting business as a packer, stockyard, dealer, agent, or any individual that receives, transports, or deals with the marketing of swine or swine products that violates specified provisions of law relating to the regulation of swine and would declare that a previous violation of those provisions is sufficient cause for the revocation of that license.

(3) 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.

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

SECTION 1. Section 9562 of the Food and Agricultural Code is amended to read:

9562. (a) Subject to the rights and procedures established pursuant to Chapter 4.5 (commencing with Section 11400) of Division 3 of Title 2 of the Government Code, and in accordance with regulations adopted pursuant to this code, the State Veterinarian shall impose a quarantine if he or she believes, upon any basis reasonably supportable by standard epidemiological practice or credible scientific research, that a population of domestic animals or food product from animals has contracted, or may carry, an illness, infection, pathogen, contagion, toxin, or condition that, without intervention, could transmit an illness that could kill or seriously damage other animals or humans, including, in addition to the original condition, those clinically plausible secondary illnesses, infections, pathogens, contagions, toxins, or conditions arising from the effects of the original.

(b) (1) Because the authority conferred by this section is designed to protect the health and safety of the citizens of this state, the authority shall be interpreted broadly to give full effect to the purpose of protecting the public health and safety and shall be construed to include the imposition of quarantines in the circumstances of natural disaster, whether occurring or imminent, or declared emergencies.



(2) In furtherance of the objectives of the quarantine, the State Veterinarian may impose restrictions not only on the affected animals themselves and the uses to which those animals may be put, but on products produced from, by, or with those animals in order to minimize the risk or spread of food-borne illness.

(3) The State Veterinarian's quarantine powers set forth in this section expressly include the power to order movement, segregation, isolation, or destruction of animals or food products, as well as the power to hold animals or food products in place.

SEC. 2. Section 10704 is added to the Food and Agricultural Code, to read:

10704. "Premises" is the farm of origin where swine were born and raised or where they have resided for a minimum of 90 continuous days immediately preceding shipment.

SEC. 3. Section 10721 of the Food and Agricultural Code is amended to read:

10721. (a) It is unlawful for any person to import any swine into this state except for immediate slaughter, unless the person procures a health certificate and import permit from the department prior to the shipment or movement of the swine.

(b) It is unlawful for any person to import any swine into this state for immediate slaughter unless the person procures an import permit from the department prior to the shipment or movement of the swine.

(c) Any person requesting an import permit shall identify the premises of the swine prior to the shipment of the swine into the state.

SEC. 4. Section 10782 of the Food and Agricultural Code is amended and renumbered to read:

10785. If the secretary finds and determines that similar regulations are necessary to control the diseases described in Section 10781 while hogs or swine are in interstate movement, the secretary shall notify the Governor so that the Governor may act pursuant to Section 9570.

SEC. 5. Section 10782 is added to the Food and Agricultural Code, to read:

10782. The department, after notice and hearing, may revoke a license granted by the department to a person conducting business as a packer, stockyard, dealer, agent, or any individual that receives, transports or deals with the marketing of swine or swine products that violates this chapter or a regulation adopted pursuant to this chapter.

SEC. 6. Section 10783 of the Food and Agricultural Code is amended and renumbered to read:

10786. (a) (1) Whenever a person violates any regulation that is adopted pursuant to this article, the department may impose an



administrative penalty not to exceed one hundred dollars (\$100) per individual animal for each violation.

(2) If the department issues an administrative penalty pursuant to paragraph (1), the department shall issue a Notice of Violation to the alleged offender or the offender’s agent. The notice shall be written in plain English and shall inform the offender as to how the offender may challenge the administrative penalty.

(b) (1) A willful and knowing violation of any regulation that is adopted pursuant to this article is a crime, punishable as (A) an infraction by a fine of not more than one hundred dollars (\$100) per individual animal for each violation, (B) a misdemeanor, or (C) a felony.

(2) Notwithstanding any other provision of law, the imposition of an administrative penalty pursuant to subdivision (a) shall not preclude prosecution of a person pursuant to paragraph (1).

SEC. 7. Section 10783 is added to the Food and Agricultural Code, to read:

10783. A previous violation of any provision of this chapter, or a regulation adopted pursuant to this chapter, is sufficient cause for the revocation of a license under Section 10782. Proof of a previous violation of this code, or a regulation adopted pursuant to this article, shall be considered an aggravating factor for a current offense.

SEC. 8. Section 10784 is added to the Food and Agricultural Code, to read:

10784. Any proceeding for the denial or revocation of a license pursuant to Section 10782 shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. The department shall have all of the powers that are granted in that Chapter 5.

SEC. 9. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

