

## Assembly Bill No. 2622

### CHAPTER 579

An act to add Chapter 4 (commencing with Section 55000) to Division 20 of the Food and Agricultural Code, relating to farm products.

[Approved by Governor September 22, 2000. Filed  
with Secretary of State September 23, 2000.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 2622, Dickerson. Farm products: rice seed certification.

Existing law creates the California Rice Commission, with a prescribed membership and with specified powers, duties, and responsibilities. The commission is authorized, among other things, to promote the sale of rice, educate and instruct the wholesale and retail trade with respect to proper methods of handling and selling rice, and conduct scientific research.

This bill would, in addition, enact the California Rice Certification Act of 2000 under which the California Rice Commission would appoint a committee, with a prescribed membership and with specified powers, duties, and responsibilities, including the duty to recommend regulations relating to rice identified as having characteristics of commercial impact. The bill would set forth various definitions. The bill would provide for the certification of rice, the imposition of various assessments; the registration of any person engaged in the production or handling of certified rice, and the labeling of certified rice.

Existing law provides that any violation of a provision of the Food and Agricultural Code is a misdemeanor, unless a different penalty is expressly provided.

This bill would make certain acts violations of state law and would make those acts crimes, thereby imposing a state-mandated local program. The bill would also provide for civil penalties and injunctive relief with respect to a violation under the bill.

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. Chapter 4 (commencing with Section 55000) is added to Division 20 of the Food and Agricultural Code, to read:

CHAPTER 4. CALIFORNIA RICE CERTIFICATION ACT OF 2000

Article 1. Declarations and Legislative Intent

55000. The production and milling of rice constitutes an important industry of this state that provides substantial and necessary revenues for the state and employment for its citizens. The California rice industry has the potential to be one of the leading segments of the state's agricultural industry. To realize this potential, there is a need to make domestic and foreign consumers aware of the nutritional value of rice, the high quality of the rice produced and milled in the state, the many varieties of rice produced and milled in the state, the intricacies of rice culture, and the versatility of rice as a part of a well balanced diet.

55001. The program established pursuant to this chapter is essential to ensuring the consistently high quality of the rice produced, milled, distributed, or otherwise handled in the state by informing consumers, maintaining consumer confidence, and enhancing and protecting the reputation of California's rice industry throughout the nation and around the world.

55002. This chapter is intended to allow the rice industry to work cooperatively to maintain consumer confidence and the acceptance of rice produced and milled in the state.

55003. There is a growing need to maintain the identity of various types of rice to satisfy increasing consumer demand for specialty rices. This demand requires providing the industry with the ability to establish the terms and conditions for the production and handling of rice in order to minimize the potential for the commingling of various types of rice, and in order to prevent commingling where reconditioning is infeasible or impossible.

Article 2. Definitions

55006. Unless the context otherwise requires, the definitions in this article govern the construction of this chapter.

55007. "Books and records" means books, records, contracts, documents, memoranda, papers, correspondence, or other data, whether in written, magnetic, or electronic form, that pertain to matters relating to this chapter.

55008. "Certification" means certification pursuant to Article 7 (commencing with Section 55070).



55009. “Characteristics of commercial impact” means characteristics that may adversely affect the marketability of rice in the event of commingling with other rice and may include, but are not limited to, those characteristics that cannot be visually identified without the aid of specialized equipment or testing, those characteristics that create a significant economic impact in their removal from commingled rice, and those characteristics whose removal from commingled rice is infeasible.

55010. “Commission” means the California Rice Commission created pursuant to Chapter 9.5 (commencing with Section 71000) of Part 2 of Division 22.

55010.5. “Committee” refers to the committee established under Section 55020.

55011. “Handler” means any person engaged in this state in the business of marketing rice, including persons engaged in the drying, milling, or storing of rice.

55012. “Person” includes any individual, partnership, limited liability company, limited liability partnership, corporation, firm, company, or any other entity doing business in California.

55013. “Producer” includes any person who produces, or causes to be produced, rice.

55014. “Rice” means all rough or “paddy” rice or milled rice (*Oryza* species) produced in or shipped into California, including mochi rice (sweet rice) and rice produced for seed. It does not include wild rice (*Zizania aquatica*; *Zizania palustris*).

55015. “Secretary” means the Secretary of Food and Agriculture.

### Article 3. Administration

55020. The secretary shall appoint a committee, from nominations received from the commission, to administer Section 55040 and Article 5 (commencing with Section 55050), except as otherwise specified. The committee consists of four producers, four handlers, and one representative each of the California Crop Improvement Association, the California Warehouse Association, and the California Cooperative Rice Research Foundation. The secretary shall also appoint one member from the University of California who shall not be affiliated with the California Crop Improvement Association. If the secretary finds any of those nominated to be unacceptable, he or she shall notify the commission and request that another person be nominated. The commission shall appoint one ex officio member who shall be involved in the marketing, breeding, or distribution of seed, and may appoint any other ex officio members deemed reasonably necessary to implement this chapter.

55020.5. (a) The committee shall meet periodically for the purposes specified in Article 4 (commencing with Section 55040).



(b) A majority of the membership of the committee shall constitute a quorum of the committee. The vote of a majority of the members present at which there is a quorum shall constitute an act of the committee. The committee may continue to transact business at a meeting at which a quorum is initially present, notwithstanding the withdrawal of members, provided any action is approved by the requisite majority of the required quorum.

(c) As a committee of the commission, the committee established pursuant to Section 55022 shall conduct itself according to the bylaws and rules of the commission.

(d) Sections 71051, 71053, 71063, and 71066 shall apply to the committee.

55021. All funds received from the assessments levied under this chapter shall be deposited in banks that the commission may designate and shall be disbursed by order of the commission through an agent or agents as it may designate for that purpose. The agent or agents shall be bonded by a fidelity bond, executed by a surety company authorized to transact business in the state, in favor of the commission, in an amount of not less than twenty-five thousand dollars (\$25,000).

55022. (a) Upon receipt of a recommendation from the committee for the promulgation of regulations, the secretary shall within 30 working days do one of the following:

(1) Initiate the rulemaking process with the regulation as recommended by the committee.

(2) Decline to initiate the rulemaking process and provide the committee with a written statement of reasons for the decision.

(3) Request that the committee provide additional information regarding the recommended regulations.

(b) All regulations adopted pursuant to this chapter shall be adopted in compliance with the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code and may be subsequently repealed or amended as provided for in that chapter.

#### Article 4. Duties and Powers

55040. The powers and duties of the committee under this chapter shall include, but not be limited to, all of the following:

(a) Identifying rices that have characteristics of commercial impact.

(b) Recommending to the secretary proposed regulations establishing terms and conditions for planting, producing, harvesting, transporting, drying, storing, or otherwise handling rice identified pursuant to subdivision (a), including, but not limited to, seed application requirements, field buffer zones, handling requirements, and identity preservation requirements. All rice



identified pursuant to subdivision (a) shall be subject to an identity preservation program.

(c) Reviewing the efficacy of terms, conditions, and identity preservation programs imposed on the planting, producing, harvesting, transporting, drying, storing, or otherwise handling of rice identified pursuant to subdivision (a) using the most current industry standards and generally accepted scientific principles.

(d) Recommending to the secretary on all matters pertaining to this chapter, including, but not limited to, enforcement of this chapter and setting the assessment rates.

(e) The committee shall review each rice identified as having characteristics of commercial impact not less often than every two years, or upon receipt of a petition from the purveyor of the rice. No purveyor of a rice identified as having characteristics of commercial impact may file more than one petition on a particular rice in any two-year period.

(f) Neither the recommendations of the committee nor any regulation adopted pursuant to this chapter shall be construed as establishing any production, processing, or market tolerance.

55045. (a) The commission may receive and investigate complaints regarding alleged violations of this chapter and the regulations adopted under it and may refer cases to the department for action pursuant to Section 55107.

(b) The commission shall provide notice to the person alleged to have violated the provisions of this chapter informing him or her of the commission's decision to take further action pursuant to this article. The person may seek a review of the commission's decision by the secretary and thereafter may seek judicial relief.

(c) Notwithstanding subdivision (b), the commission may immediately seek injunctive relief, as specified in Section 55046. Any injunction obtained by the commission shall remain in full force and effect pending any review by the secretary.

55046. (a) The commission may investigate and commence civil actions and utilize all remedies provided in law or equity for the collection of assessments and for the obtaining of injunctive relief or specific performance regarding this chapter and the regulations adopted under it. The commission may seek a writ of attachment or injunctive relief, including, but not limited to, a temporary restraining order, temporary injunction, or a permanent injunction, in order to prevent any violation or threatened violation of this chapter. A court shall issue to the commission any requested writ of attachment or injunctive relief upon a prima facie showing by verified complaint that a named defendant has violated, or has threatened to violate, this chapter or any regulation promulgated under it. No bond shall be required to be posted by the commission as a condition for the issuance of the requested writ of attachment or injunctive relief.



(b) A writ of attachment shall be issued pursuant to Chapter 4 (commencing with Section 485.101) of Title 6.5 of Part 2 of the Code of Civil Procedure, except that the showing specified in Section 485.010 of the Code of Civil Procedure shall not be required. Injunctive relief shall be issued pursuant to Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that the showing of irreparable harm or inadequate remedy at law specified in Sections 526 and 527 of the Code of Civil Procedure shall not be required.

(c) Upon entry of any final judgment on behalf of the commission against any defendant, the court shall enjoin the defendant from conducting any type of business regarding rice until there is full compliance and satisfaction of the judgment. Upon a favorable judgment for the commission, it shall be entitled to receive reimbursement for any reasonable attorney's fees and other related costs. Venue for these actions may be established at the domicile or place of business of the defendant or in the county of the principal place of business of the commission. The commission may be sued only in the county of its principal office.

55047. The committee shall recommend to the secretary that regulations be adopted by the secretary that accomplish all of the following purposes:

(a) Maintain the integrity and prevent the contamination of rice which has not been identified as having characteristics of commercial impact.

(b) Prevent the introduction of disease, weeds, or other pests.

(c) Ensure that persons selling, offering for sale, or otherwise distributing seed for the production of rice identified as having characteristics of commercial impact, or that persons bringing rice identified as having characteristics of commercial impact into the state for processing, notify the commission of the location of planting sites and of the dates and procedures for planting, producing, harvesting, transporting, drying, storing, or otherwise handling of rice identified as having characteristics of commercial impact.

(d) Ensure that persons receiving rice having been identified as having characteristics of commercial impact produced outside the state for processing notify the commission of the location of the receipt and of the procedures for processing, transporting, drying, storing, or otherwise handling the rice to prevent commercial impact to other rice and the spread of weeds, disease, or other pests.

(e) Ensure enforcement of terms and conditions imposed on the planting, producing, harvesting, transporting, drying, storing, or otherwise handling of rice identified as having characteristics of commercial impact.

(f) Encourage research and development of new types of rice.



Article 5. Commercial Impact Rice

55050. Except as provided for in Section 55052, no person may plant, produce, harvest, transport, dry, store, or otherwise handle rice identified as having characteristics of commercial impact, except in compliance with the provisions of this chapter and the regulations adopted under it. Regulations shall be adopted by the secretary, in accordance with Section 55022, to accomplish all of the following purposes:

(a) Maintain the integrity and prevent contamination of rice which has not been identified as having characteristics of commercial impact.

(b) Prevent the introduction of disease, weeds, or other pests.

(c) Ensure that persons selling, offering for sale, or otherwise distributing seed for the production of rice pursuant to subdivision (a) of Section 55040 or bringing rice identified pursuant to subdivision (a) of Section 55040 into the state for processing notify the commission of the location of planting sites and of the dates and procedures for planting, producing, harvesting, transporting, drying, storing, or otherwise handling of the rice.

(d) Ensure that persons receiving rice having been identified pursuant to subdivision (a) of Section 55040 produced outside the state for processing notify the commission of the location of the receipt and of the procedures for processing, transporting, drying, storing, or otherwise handling the rice to prevent commercial impact to other rice and the spread of weeds, disease, or other pests.

(e) Enforce the restrictions and conditions imposed on the planting, producing, harvesting, transporting, drying, storing, or otherwise handling of rice identified pursuant to subdivision (a) of Section 55040.

(f) Encourage research and development of new types of rice.

55051. Except as specified in Section 55052, no rice may be sold, offered for sale, or otherwise distributed, planted, harvested, transported, dried, stored, or otherwise handled unless it has been reviewed by the committee for the purposes of making the findings set forth in Section 55040, and if necessary, the establishment of regulations pursuant to Section 55047.

55052. (a) Except as set forth in this section, this chapter shall not apply to 50 acres or less of rice of any type planted for research purposes. No one type may be planted on more than 50 acres in the state and be considered research within the meaning of this section. Any person conducting research on 50 acres or less shall notify the committee of the location of the acreage involved, and the proposed procedures for planting, producing, harvesting, transporting, drying, storing, or otherwise handling the rice. The committee shall review and approve, modify, or reject the proposed procedures to ensure that the research will not result in commercial impacts to other rice.



The committee shall accept any procedures that have been previously approved or accepted by an agency of state or federal government unless the committee provides written justification for modifying or rejecting the procedures.

(b) In addition to the information required pursuant to subdivision (a), the committee may require any person proposing to conduct research using rice brought into the state from another state or country to provide the committee with proposed procedures to ensure that the introduced rice is free of disease, weeds, or other pests. The committee shall review and approve, modify, or reject the proposed procedures. The committee shall accept any procedures that have been previously approved or accepted by an agency of state or federal government unless the committee provides written justification for modifying or rejecting the procedures.

(c) The notice required pursuant to this section shall not require specific information regarding the attributes of the rice that is the subject of the research.

(d) The notice required by this section shall be provided in the time and manner specified by the committee.

(e) This chapter shall not apply to research conducted by the University of California except for rice produced directly from the research that enters the channels of trade.

#### Article 6. Assessments

55060. (a) Any person engaged in the business of selling, offering for sale, or otherwise distributing seed for the production of rice identified as having characteristics of commercial impact, shall annually pay to the commission an assessment in an amount not to exceed five dollars (\$5) per hundredweight (cwt.).

(b) The first in-state handler of paddy or brown rice identified as having characteristics of commercial impact, or of seed for the production of rice identified as having characteristics of commercial impact, brought into the state from outside California, shall report the receipt of the rice or seed and pay an assessment to the commission in an amount not to exceed ten cents (\$0.10) per hundredweight (cwt). The report and payment shall be made in the time and manner specified by the commission.

55061. The assessment shall be paid in the time and manner specified by the commission. No assessment shall be paid by any person for any rice seed for which the assessment has been previously paid. Assessments not paid when due shall be subject to a penalty of 10 percent of the assessment and interest at the rate of 1 percent per month.

55062. The commission shall use all funds received pursuant to this chapter for the purposes of this chapter.





55063. The commission shall publish an annual report of its activities including an accounting of the use of assessments collected pursuant to this chapter. The report, in aggregate form, shall be made available to any person upon request.

#### Article 7. Certification of Rice

55070. The commission may establish a program allowing for the certification of any verifiable attribute of rice. The commission may operate the program or contract with qualified entities to implement all or any aspect of the program. No organization shall be considered qualified for the purposes of this article unless it can provide accurate, verifiable certification of identified attributes of seed, rough or paddy rice, or milled rice, as determined by the commission. This article does not authorize the certification of any rice as organic. Certification pursuant to this article shall not be construed as establishing any production, processing, or market tolerance.

55071. (a) The commission shall require any organization seeking to certify rice pursuant to this article to file the procedures and standards of an internationally recognized identity preservation program or a certification plan, including, but not limited to, the following:

(1) Minimum information to be required from seed producers, producers and handlers regarding production, growing, conditioning, or processing practices, and methods for verifying the information received.

(2) Qualifications of, and training requirements for, all inspectors.

(3) Procedures for inspection and testing methods, including a complete description of the sampling methodologies.

(4) Criteria for certification and attributes to be certified.

(5) Processes for decisionmaking relative to certification procedures, criteria, and methods.

(b) The certification plan shall be kept by the commission and made available for public inspection upon request.

55072. Organizations certifying rice shall keep accurate books, accounts, and records of all activities relating to certification. The records shall be preserved for a period of three years and shall be submitted for inspection at any reasonable time upon written demand of the commission.

55074. At the end of each rice producing season, as established by the commission, each organization certifying rice for the commission shall prepare a list of all persons whose rice has been certified or is pending certification. This list shall be filed with the commission and shall be available for public inspection.

55075. (a) Notwithstanding any other provision of law, any producer or handler of rice sold as a certified rice and any organization certifying rice for the commission shall immediately



make available for inspection by, and shall within 72 hours of a request provide to, the commission a copy of any record required to be kept under this chapter. Records acquired pursuant to this section and any information marked trade secret or confidential acquired by the commission in carrying out its duties under this chapter shall not be public records as that term is defined in Section 6252 of the Government Code and shall not be subject to Chapter 3.5 (commencing with Section 6250) of the Government Code.

(b) The commission shall not be required to obtain records not in its possession in response to a subpoena. Prior to releasing records required to be kept pursuant to this chapter in response to a subpoena, the commission shall delete any financial information about any operation or transaction, information regarding the identity of suppliers or customers, the quantity or price of supplies purchased or products sold and any information marked trade secret or confidential.

(c) Except for those records subject to public inspection pursuant to Sections 55071 and 55074, this section shall be the exclusive means of public access to records required to be kept or obtained by the commission pursuant to this chapter.

55076. Upon receipt of a petition from any person providing adequate evidence of good cause to do so, the commission may declare all rice produced within a specified area to be certified as to any attribute. If the commission makes this declaration, all rice produced within the area shall be deemed certified, and may be labeled as provided in Section 55082 if the rice is handled to preserve its identity.

#### Article 8. Sale of Certified Rice

55080. Every person engaged in this state in the production or handling of rice to be identified as certified pursuant to this chapter, shall register with the commission or its designate prior to the first sale of rice so identified, and shall thereafter annually renew the registration unless the person is no longer engaged in the activities requiring registration.

55081. Registration shall be on a form developed by the commission, or developed by its designate and approved by the commission, and shall be valid for one rice producing season.

55082. Rice certified pursuant to this chapter shall be labeled as follows or with substantially similar language:

“THIS LOT OF RICE CERTIFIED (accurate identification of specified attribute) IN ACCORDANCE WITH THE CALIFORNIA RICE CERTIFICATION ACT OF 2000.”



The label shall also include the name of any organization that provided the certification as the commission's designate. The commission may revise the label language with the concurrence of the secretary.

55083. This chapter shall apply to all rice sold as certified pursuant to this chapter within the state, wherever produced or handled, and to all rice produced or handled in the state, wherever sold as certified, pursuant to this chapter; except that in lieu of registration under this chapter, the commission may recognize a certification program operating outside the state that certifies rice sold as certified, provided that program meets minimum standards substantially similar to those contained in this chapter. The commission may establish a procedure whereby certification organizations operating outside the state may apply for and receive recognition.

#### Article 9. Violations

55100. (a) It is unlawful for any person to sell, offer for sale, advertise, or label rice in violation of this chapter.

(b) Notwithstanding subdivision (a), a person engaged in business as a retailer of rice who in good faith sells, offers for sale, labels, or advertises any rice in reliance on the representations of a producer or handler that the rice may be sold as certified, shall not be found to violate this chapter, except under any of the following circumstances:

(1) The retailer knew or should have known that the rice could not be sold as certified.

(2) The retailer was engaged in producing or handling the rice.

(3) The retailer prescribed or specified the manner in which the rice was produced or handled.

55101. (a) It is unlawful for any person to certify rice in violation of this chapter.

(b) It is unlawful for any person to certify rice unless designated by the commission.

(c) It is unlawful for any person to willfully make a false statement or representation, or knowingly fail to disclose a fact required to be disclosed pursuant to Article 7 (commencing with Section 55070).

55102. (a) It is unlawful for any person to produce or handle rice sold as certified unless duly registered pursuant to Section 55080.

(b) It is unlawful for any person to willfully make a false statement or representation, or knowingly fail to disclose a fact required to be disclosed, during registration pursuant to Section 55080.

55103. It is unlawful for any person to forge, falsify, fail to retain, fail to obtain, or fail to disclose records as required by this chapter.

55104. It is unlawful for any person to fail or refuse to pay any assessments levied pursuant to this chapter.



55105. It is unlawful for any person to sell, offer for sale, or otherwise distribute, plant, grow, harvest, handle, or store rice, except in compliance with this chapter and the regulations adopted under it.

55106. (a) The secretary may levy a civil penalty against any person who violates this chapter, or any regulations adopted pursuant to this chapter, in an amount not more than five thousand dollars (\$5,000) for each violation. The amount of the penalty assessed for each violation shall be based upon the nature of the violation, the seriousness of the effect of the violation upon the effectuation of the purposes and provisions of this chapter, and the impact of the penalty on the violator, including the deterrent effect on future violations.

(b) Upon a finding that a violation was unintentional, the secretary may levy a civil penalty of not more than two thousand five hundred dollars (\$2,500) for each violation.

(c) For a first offense, and upon a finding that the violation is minor and unintentional, in lieu of a civil penalty as prescribed in subdivision (a) or (b), the secretary may issue a notice of violation.

(d) A person against whom a civil penalty is levied shall be afforded an opportunity for a hearing before the secretary, upon a request made within 30 days after the date of issuance of the notice of penalty. At the hearing, the person shall be given the right to present evidence on his or her own behalf. If no hearing is requested, the civil penalty shall constitute a final and nonreviewable order.

(e) If a hearing is held, review of the decision of the secretary may be sought by the person against whom the civil penalty is levied within 30 days of the date of the final order of the secretary pursuant to Section 1094.5 of the Code of Civil Procedure.

(f) A civil penalty levied by the secretary pursuant to this section may be recovered in a civil action brought in the name of the state.

55107. (a) Any violation of any provision of this chapter or the regulations promulgated under it shall constitute grounds for injunctive relief. An action for injunctive relief may be brought in a court of competent jurisdiction by the secretary. The commission shall also be authorized to bring an action in its own name for injunctive relief on the grounds provided for in this chapter.

(b) Prior to bringing an action for injunctive relief pursuant to this section, the commission shall review all available information, recommend specific enforcement action to the secretary, and allow the secretary the opportunity to respond, as provided for in Section 55060. Notwithstanding the secretary's response, nothing in this section shall be construed as preventing the commission from bringing the action.

55108. Penalties received pursuant to this article shall be handled as specified in Section 55062.



SEC. 2. 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.

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